## FOURTEENTH DAY
(Saturday, July 15, 1989)

The Senate met at 2:00 p.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Brooks, Caperton, Haley, Krier, Lyon, Montford, Parker.

Absent: Armbrister, Barrientos, Bivins, Brown, Carriker, Dickson, Edwards, Glasgow, Green, Harris, Henderson, Johnson, Leedom, McFarland, Parmer, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Washington, Whitmire, Zaffirini.

The President observed the lack of a quorum and stated that, since a Conference Committee Report on **S.B. 1** was not yet available for consideration, the Members, by previous agreement, had been advised that their attendance for today's session would not be necessary.

### ADJOURNMENT

On motion of Senator Brooks, the Senate at 2:03 p.m. adjourned until 10:00 a.m. tomorrow.

## FIFTEENTH DAY
(Sunday, July 16, 1989)

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by Senator McFarland.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Zaffirini.

Absent-excused: Glasgow, Green, Parmer, Washington, Whitmire.

A quorum was announced present.

Senate Doorkeeper Jim Morris offered the invocation as follows:

Thou has taught us, our Father, to love our God, to love life and one another, and we do this in Your name on this Sabbath morning. The gavel now calls us to service and to the privileges and trials of a new day, and we pray it will begin and end in Thy presence. We know that God governs the affairs of men and women and pray You will continue to provide the stamina and dedication to each one as they work toward an acceptable compromise. Bless their efforts today. We pray this in the name of our Lord Jesus Christ. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

### LEAVES OF ABSENCE

Senator Glasgow was granted leave of absence for today on account of important business on motion of Senator Henderson.

Senator Green was granted leave of absence for today on account of important business on motion of Senator Henderson.

Senator Washington was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Whitmire was granted leave of absence for today on account of important business on motion of Senator Henderson.

Senator Parmer was granted leave of absence for today on account of important business on motion of Senator Brooks.

## MESSAGE FROM THE HOUSE

House Chamber
July 16, 1989

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House suspended all necessary rules and adopted the Conference Committee Report on **H.B. 67** by a non-record vote.

The House has concurred in Senate amendments to **H.B. 28** by a non-record vote.

**S.C.R. 2**, Directing the State Department of Highways and Public Transportation in cooperation with the Texas Historical Commission to develop an historic preservation plan for the Old San Antonio Road. (As amended)

**S.C.R. 6**, Congratulating the Blue Dolphin Aquatic Club.

**S.C.R. 17**, Commending Bobby Evans and Billy Black. (As amended)

**H.C.R. 33**, Commending certain companies for efforts to save Treaty Oak.

**S.B. 21**, Relating to the Gregg County Juvenile Board.

**S.B. 27**, Relating to filling a vacancy on the governing board of a junior college district. (As amended)

**S.B. 29**, Relating to a requirement that persons placed on probation and persons released on parole or mandatory supervision submit to testing for controlled substances. (As substituted)

**S.B. 30**, Relating to the punishment for certain offenses committed against a child during a ritual or ceremony.

**S.B. 32**, Relating to the availability of jury-recommended probation for certain persons convicted of the offense of delivery of a controlled substance to a minor. (As amended)

**S.B. 50**, Relating to the contract authority of the Jefferson County Drainage District No. 7.

**S.B. 53**, Relating to the State allocation and reservation system for private activity bonds and to bonds issued by an industrial development corporation.

**S.B. 57**, Relating to involuntary civil commitment procedures for alcoholics, mentally ill persons and drug-dependent persons. (As substituted)

**S.B. 59**, Relating to the assessment and collection by, and the appropriation to, the Texas Department of Health of fees for certain regulatory, licensing and other functions of the department pursuant to laws enacted by the 71st Legislature in its regular session. (As amended)

**S.B. 64**, Relating solely to the transfer of governance, management and operation of West Texas State University from the board of regents of that institution to the board of regents of The Texas A&M University System.

**S.B. 67**, Relating to the enforcement of child support and to the collection of information for the enforcement of child support by the Texas Department of Health. (As amended)

**S.B. 75**, Relating to the effective date of the legislation relating to the qualifications for serving as judge of the County Court at Law of Nolan County.

**S.B. 80**, Relating to the offense of desecration of a United States flag. (As substituted and amended)

**S.B. 86**, Relating to an appropriation to the University of North Texas for repair or replacement of facilities damaged by fire.

**S.B. 91**, Relating to the county courts at law in Randall County.

**S.B. 96**, Relating to the jurisdiction of the Starr County Court at Law.

**H.B. 65**, Relating to the forfeiture of certain property related to enumerated felony offenses and to the receipt of funds derived from or intended to further certain offenses.

**H.B. 94**, Relating to the regulation of aeronautics by the State Department of Highways and Public Transportation; making appropriations.

**H.B. 121**, Relating to jury instructions on mitigating circumstances in the punishment phase of capital cases.

**H.B. 128**, Relating to the terms of office of members of The Finance Commission of Texas.

**H.B. 131**, Relating to the acquisition of land and facilities by a county for lease to public entities for public purposes or to private entities for manufacturing or commercial purposes; authorizing the issuance of bonds.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

## REPORT OF STANDING COMMITTEE

Senator Montford submitted the following report for the Committee on State Affairs:

### H.B. 101

## SENATE BILL ON FIRST READING

The following bill was introduced, read first time and referred to the Committee indicated:

**S.B. 104** by Sims — Health and Human Services
Relating to the McCamey County Hospital District.

## HOUSE BILLS ON FIRST READING

The following bills received from the House were read the first time and referred to the Committee indicated:

**H.B. 65**, To Committee on Criminal Justice.
**H.B. 94**, To Committee on State Affairs.
**H.B. 121**, To Committee on Criminal Justice.
**H.B. 128**, To Committee on Economic Development.
**H.B. 131**, To Committee on Intergovernmental Relations.

## CO-AUTHOR OF SENATE BILL 92

On motion of Senator Sims and by unanimous consent, Senator Zaffirini will be shown as Co-author of **S.B. 92**.

## CO-SPONSORS OF HOUSE BILL 116

On motion of Senator Edwards and by unanimous consent, Senators Green and Carriker will be shown as Co-sponsors of **H.B. 116**.

## PROCLAMATIONS FROM THE GOVERNOR

The following Proclamations from the Governor were read and were filed with the Secretary of the Senate:

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE SEVENTY-FIRST TEXAS LEGISLATURE IN FIRST CALLED SESSION:

41-2354

Pursuant to Article III, Section 40 and Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby submit the following matter for consideration by the Seventy-first Texas Legislature in its First Called Session:

(1) legislation relating to the enforcement of child support and to the collection of information for the enforcement of child support by the Texas Department of Health.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 14th day of July, 1989.

41-2355

Pursuant to Article III, Section 40 and Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby submit the following matter for consideration by the Seventy-first Texas Legislature in its First Called Session:

(1) legislation relating to filling a vacancy on the board of trustees of a junior college district.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 14th day of July, 1989.

41-2356

Pursuant to Article III, Section 40 and Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby submit the

following matter for consideration by the Seventy-first Texas Legislature in its First Called Session:

(1) legislation appropriating funds to the University of North Texas for the repair or replacement of facilities damaged by fire.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 14th day of July, 1989.

41-2357

Pursuant to Article III, Section 40 and Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby submit the following matter for consideration by the Seventy-first Texas Legislature in its First Called Session:

(1) legislation relating to the establishment of West Texas State University (WTSU) as a component institution of The Texas A&M University System (A&M) upon approval of the Coordinating Board and the Boards of Regents of WTSU and A&M.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 14th day of July, 1989.

Respectfully submitted,

/s/W. P. Clements, Jr.
William P. Clements, Jr.
Governor of Texas

ATTEST:

/s/George S. Bayoud, Jr.
George S. Bayoud, Jr.
Secretary of State

**CONFERENCE COMMITTEE REPORT**
**HOUSE BILL 67**

Senator Dickson submitted the following Conference Committee Report:

Austin, Texas
July 13, 1989

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 67** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

| | |
|---|---|
| DICKSON | SCHLUETER |
| PARKER | EARLEY |
| KRIER | LANEY |

WILLIAMSON
PERRY
On the part of the Senate On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

## SENATE RULE 11.11 SUSPENDED

On motion of Senator Brooks and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Health and Human Services might consider **S.B. 104** today.

## HEALTH AND HUMAN SERVICES COMMITTEE GRANTED PERMISSION TO MEET

On motion of Senator Brooks and by unanimous consent, the Committee on Health and Human Services was granted permission to meet while the Senate was in session.

## SENATE RULE 11.11 SUSPENDED

On motion of Senator Henderson and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Economic Development might consider **H.B. 128** at 9:00 a.m. tomorrow.

## HOUSE CONCURRENT RESOLUTION 33

The Presiding Officer laid before the Senate the following resolution:

WHEREAS, Many Texas citizens have been shocked and saddened by the recent poisoning of Austin's historic Treaty Oak; and

WHEREAS, Efforts to save this magnificent tree have united countless individuals in the public and private sectors, each of whom has worked with diligence and cooperation in an attempt to rescue the stricken oak; and

WHEREAS, Four Texas companies—the Permian Corporation, Utopia Spring Water, the Texas Tank Truck Carrier Association, and the Odeen Hibbs Trucking Company—have offered exceptional assistance in supplying the pure, nonchlorinated spring water that experts have determined is the most effective treatment for the 600-year-old tree; and

WHEREAS, The Treaty Oak represents a living part of our state's heritage, an enduring symbol of the strength and hope that bind us together; by working in union to save the oak, these four companies have demonstrated the friendship and cooperation that exemplify the true spirit of Texas; now, therefore, be it

RESOLVED, That the 71st Legislature, 1st Called Session, of the State of Texas hereby honor the following companies and extend sincere thanks for their outstanding assistance in the effort to save Austin's Treaty Oak: to the Permian Corporation, for delivering water from the Texas Hill Country to the site of the tree; to Utopia Spring Water, for providing sodium free, nonchlorinated spring water at the rate of 2,000 gallons per day; to the Texas Tank Truck Carrier Association, for coordinating a system to transport the water; and to the Odeen Hibbs Trucking Company, for providing tanks to remove wastewater and contaminated soil from the site; and, be it further

RESOLVED, That official copies of this resolution be prepared for each of the above-named companies as expressions of highest regard from the Texas House of Representatives and Senate.

The resolution was read.

On motion of Senator Haley and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

## SENATE RESOLUTION 175

Senator Brooks offered the following resolution:

WHEREAS, The adoption of legislative and congressional redistricting plans will be among the most important actions to be taken by the 72nd Legislature; and

WHEREAS, In order for the Texas Senate to be able to conduct the necessary study of issues attendant to the redistricting process, preliminary work must commence immediately; and

WHEREAS, The varied interests represented by the Senate should be represented during this process; now, therefore, be it

RESOLVED, That the President of the Senate be authorized to appoint a special interim committee of the Senate to study redistricting and to conduct any necessary public hearings; and, be it further

RESOLVED, That the committee be designated the Senate Interim Committee on Redistricting; and, be it further

RESOLVED, That the members of the committee be current members of the Senate and be appointed by the President, and that the President designate the chair and vice-chair of the committee; and, be it further

RESOLVED, That the committee be authorized to request the assistance of the Texas Legislative Council in the performance of its duties; and, be it further

RESOLVED, That the committee have all powers and duties provided for special committees under Chapter 301, Government Code, rules of the Senate, policies of the Senate Committee on Administration, and policies of the Texas Legislative Council relating to interim committees; and, be it further

RESOLVED, That committee members be reimbursed for their necessary expenses as provided by policies of the Senate Committee on Administration and policies of the Texas Legislative Council relating to interim committees; and, be it further

RESOLVED, That the committee make a complete report of its activities and any findings and recommendations to the Senate of the 72nd Legislature when it convenes.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

## REPORT OF STANDING COMMITTEE

Senator Brooks submitted the following report for the Committee on Health and Human Services:

### S.B. 104

## SENATE RULE 12.09(a) SUSPENDED

On motion of Senator Dickson and by unanimous consent, Senate Rule 12.09(a) was suspended as it relates to the Conference Committee Report on **H.B. 67**.

## CONFERENCE COMMITTEE REPORT ON HOUSE BILL 67 ADOPTED

Senator Dickson called from the President's table the Conference Committee Report on **H.B. 67**. (The Conference Committee Report having been filed with the Senate and read on Sunday, July 16, 1989.)

On motion of Senator Dickson, the Conference Committee Report was adopted by the following vote: Yeas 23, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Haley, Harris, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Ratliff, Santiesteban, Sims, Tejeda, Zaffirini.

Nays: Henderson, Truan, Uribe.

Absent-excused: Glasgow, Green, Parmer, Washington, Whitmire.

**SENATE RULE 7.22(b) SUSPENDED**

On motion of Senator Brooks and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendments to **S.B. 59**.

**SENATE BILL 59 WITH HOUSE AMENDMENTS**

Senator Brooks called **S.B. 59** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

**Floor Amendment No. 1 - Saunders**

Amend **S.B. 59** by adding the following as SECTION 2.13:

SECTION 2.13. STATE LEGALIZATION IMPACT ASSISTANCE GRANTS. The Department of Health is authorized to reimburse health-related institutions of higher education with Federal State Legalization Impact Assistance Grant (SLIAG) funds for providing services to eligible legalized aliens. SLIAG reimbursements to such institutions of higher education are appropriated to the institutions for patient care services for the biennium ending August 31, 1991.

**Floor Amendment No. 2 - Madla**

Amend **S.B. 59** on page 1, line 25 and page 2, line 1, by striking "solid waste permitting, enforcement, and planning actions" and substituting "solid waste enforcement and planning actions".

The amendments were read.

Senator Brooks moved to concur in the House amendments to **S.B. 59**.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Glasgow, Green, Parmer, Washington, Whitmire.

**SENATE RULE 7.22(b) SUSPENDED**

On motion of Senator Zaffirini and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendment to **S.B. 27**.

**SENATE BILL 27 WITH HOUSE AMENDMENT**

Senator Zaffirini called **S.B. 27** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**Floor Amendment - Garcia**

Amend **S.B. 27** as follows:

On page 3, line 19, add the word "sole" before the word "purpose".

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **S.B. 27**.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Glasgow, Green, Parmer, Washington, Whitmire.

## SENATE RULE 7.22(b) SUSPENDED

On motion of Senator Zaffirini and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendment to **S.B. 29**.

## SENATE BILL 29 WITH HOUSE AMENDMENT

Senator Zaffirini called **S.B. 29** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**Committee Amendment - Telford**

Amend **S.B. 29** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 6, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (g) to read as follows:

(a) The court having jurisdiction of the case shall determine the terms and conditions of probation and may, at any time, during the period of probation alter or modify the conditions; provided, however, that the clerk of the court shall furnish a copy of such terms and conditions to the probationer, and shall note the date of delivery of such copy on the docket. Terms and conditions of probation may include, but shall not be limited to, the conditions that the probationer shall:

(1) Commit no offense against the laws of this State or of any other State or of the United States;

(2) Avoid injurious or vicious habits;

(3) Avoid persons or places of disreputable or harmful character;

(4) Report to the probation officer as directed by the judge or probation officer and obey all rules and regulations of the probation department;

(5) Permit the probation officer to visit him at his home or elsewhere;

(6) Work faithfully at suitable employment as far as possible;

(7) Remain within a specified place;

(8) Pay his fine, if one be assessed, and all court costs whether a fine be assessed or not, in one or several sums, and make restitution or reparation in any sum that the court shall determine;

(9) Support his dependents;

(10) Participate, for a time specified by the court and subject to the same conditions imposed on community-service probationers by Sections 10A(c), (d), (g), and (h) of this article, in any community-based program, including a community-service work program designated by the court;

(11) Reimburse the county in which the prosecution was instituted for compensation paid to appointed counsel for defending him in the case, if counsel was appointed, or if he was represented by a county-paid public defender, in an amount that would have been paid to an appointed attorney had the county not had a public defender;

(12) Remain under custodial supervision in a community-based facility, obey all rules and regulations of such facility, and pay a percentage of his income to the facility for room and board;

(13) Pay a percentage of his income to his dependents for their support while under custodial suspension in a community-based facility;

(14) Pay a percentage of his income to the victim of the offense, if any, to compensate the victim for any property damage or medical expenses sustained by the victim as a direct result of the commission of the offense;

(15) Attend psychological counseling sessions at the direction of the probation officer and at the probationer's own expense, if the probationer was sentenced for an offense under Section 21.11, 22.011, 22.021, or 22.04, Penal Code;

(16) Participate in an intensive probation program described by Section 3.11, Article 42.121 of this code, at the direction of the court or the probation officer;

(17) Submit to testing for controlled substances;

(18) Attend counseling sessions for substance abusers, if the person was sentenced for an offense involving controlled substances or the court determines that the defendant's use of controlled substances was connected to the commission of the offense; and

(19) Participate in a program at the direction of the probation officer that teaches functionally illiterate persons to read.

(g) On any evidence of the presence of a controlled substance in the defendant's body, or on any evidence the defendant has used a controlled substance, or on evidence that controlled substance use is related to the offense for which the defendant was placed on probation, the court shall require as a condition of probation that the defendant submit to testing for controlled substances in the defendant's body.

SECTION 2. Article 42.121, Code of Criminal Procedure, is amended by adding Section 3.111 to read as follows:

Sec. 3.111. TESTING FOR CONTROLLED SUBSTANCES. The commission by rule shall adopt procedures for the administration of the tests for controlled substances required by Subsection (g) of Section 6 of Article 42.12 of this code.

SECTION 3. Article 42.18, Code of Criminal Procedure, is amended by adding Section 8A to read as follows:

Sec. 8A. (a) In addition to other conditions imposed by the board under this article, the board shall require as a condition of parole or release to mandatory supervision, on evidence of the presence of a controlled substance in the defendant's body, or on any evidence the defendant has used a controlled substance, or on evidence that controlled substance use is related to the offense for which the defendant was convicted, that the defendant submit to testing for controlled substances.

(b) The board by rule shall adopt procedures for the administration of tests required by this section.

SECTION 4. This Act takes effect January 1, 1990.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Zaffirini and by unanimous consent, the Senate concurred in the House amendment to **S.B. 29** viva voce vote.

**SENATE RULE 7.22(b) SUSPENDED**

On motion of Senator Zaffirini and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendment to **S.B. 32.**

## SENATE BILL 32 WITH HOUSE AMENDMENT

Senator Zaffirini called **S.B. 32** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**Floor Amendment - Parker**

Amend **S.B. 32** on page 2, line 7 after "committed" by adding the following:

"by his own conduct"

The amendment was read.

On motion of Senator Zaffirini and by unanimous consent, the Senate concurred in the House amendment to **S.B. 32** viva voce vote.

## SENATE RULE 7.22(b) SUSPENDED

On motion of Senator Krier and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendments to **S.B. 67**.

## SENATE BILL 67 WITH HOUSE AMENDMENTS

Senator Krier called **S.B. 67** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

**Floor Amendment No. 1 - Uher**

Amend **S.B. 67**, page 5, line 26 by striking the words "September 1, 1989" and substituting the following: "January 1, 1990."

**Floor Amendment No. 2 - P. Hill**

Amend **S.B. 67** by striking Sections 9 and 10 and substituting the following:

SECTION 9. Section 11.06, Family Code, is amended by adding Subsection (l) to read as follows:

(l) Except as provided by Section 14.14 of this code, the fee for filing a transferred case is $35 and is to be paid to the clerk of the court to which the case is transferred. No portion of this fee may be sent to the state. The party may not be assessed any other fee, cost, charge, or expense by the clerk of the court or other public official in connection with filing of the transferred case. This fee limitation does not affect a fee payable to the court transferring the case.

SECTION 10. Section 11.11(h), Family Code, is amended to read as follows:

(h) The violation of any temporary restraining order, temporary injunction, or other temporary order issued under this section is punishable by contempt. When enforcement of an order is sought by a motion for contempt, the respondent shall be personally served with notice directing the respondent to appear for a hearing at a designated time and place. If the respondent fails to appear for the hearing at the time and place designated, the movant's attorney may request the issuance of a capias for the arrest of the respondent. If the court grants the request, it shall also set an appearance bond or security in a reasonable amount at the same time that the capias is issued. It shall be rebuttably presumed that an appearance bond or security in the amount of $1,000, or a cash bond in the amount of $250, is reasonable. The capias shall be entered [~~treated~~] by law enforcement officials [~~in the same manner as a misdemeanor arrest warrant for a criminal offense, including entry~~] in a local police, [~~or~~] sheriff's, and state computer record of outstanding warrants[~~; but shall not be entered in a state or federal computer record of~~

~~outstanding warrants~~]. If the respondent is taken into custody and released on bond, the bond shall be conditioned on the respondent's promise to appear in court for a hearing on the merits as required by the court without the necessity of further personal service of notice on the respondent by an officer. If the respondent is taken into custody and not released on bond, the respondent shall be taken before the court that issued the capias on or before the first working day after the arrest for a release hearing to determine whether the respondent's appearance in court at a designated time and place can be assured by a method other than by posting the bond or security previously established. If the court makes this determination, the court may set a hearing on the alleged contempt for a designated time and place without the necessity of further notice to the respondent. If the court is not satisfied that the respondent's appearance in court can be assured and the respondent remains in custody, a hearing on the alleged contempt shall be held as soon as practicable, but not later than five days after the day that the respondent was taken into custody unless the accelerated hearing is waived by the respondent and by the attorney as provided by Section 14.32(f) of this code. If a cash bond has been posted and the respondent appears at the hearing as directed, and if the respondent is found to be in contempt for failure to pay child support as ordered, the court shall order the respondent to execute an assignment of the cash bond to the child support obligee or to a person designated by the court up to the amount of any child support arrearages determined to exist. If the respondent fails to appear at the hearing as directed and the appearance bond or security has been forfeited, and if the respondent has been found to be in contempt for failure to pay child support as ordered, the proceeds of any judgment on the bond or security shall be paid to the obligee or to a person designated by the court up to the amount of any child support arrearages determined to exist. The obligee may bring suit on the bond in his own right.

SECTION 11. Section 11.14, Family Code, is amended by adding Subsection (j) to read as follows:

(j) In any suit seeking the establishment of the parent-child relationship, after a hearing the court shall grant a motion for a preferential setting for a final hearing on the merits filed by a party to the suit or by the attorney or guardian ad litem for the child and shall give precedence to that hearing over other civil cases if discovery has been completed or sufficient time has elapsed since the filing of the suit for the completion of all necessary and reasonable discovery if diligently pursued.

SECTION 12. Section 11.155, Family Code, is amended to read as follows:

Sec. 11.155. CONTENTS OF [~~INCLUSION OF SOCIAL SECURITY NUMBERS IN~~] DECREE. (a) A decree in a suit affecting the parent-child relationship must contain the social security number and driver's license number of each party to the suit, including the child, except that the child's social security number or driver's license number is not required if the child has not been assigned a social security number or driver's license number.

(b) Except as provided by Subsection (c) of this section, a party to a decree in a suit affecting the parent-child relationship that orders child support or possession of or access to a child shall:

(1) when the decree is entered, provide the clerk of the court with the party's current residence address, mailing address, home telephone number, name of employer, address of employment, and work telephone number; and

(2) before the 11th day after the date any information in Subdivision (1) of this subsection changes, inform the clerk and all other parties of the change as long as any person, by virtue of the decree, is under an obligation to pay child support or is entitled to possession of or access to a child.

(c) If a court finds after notice and hearing that requiring a party to provide the information required by Subsection (b) of this section is likely to cause the child or a conservator harassment, serious harm, or injury, the court may:

(1) order the information not to be disclosed to another party; or

(2) enter any other order the court considers necessary.

(d) A decree in a suit affecting the parent-child relationship that orders child support or possession of or access to a child must contain the following in bold-faced type or in capital letters:

"Failure to obey a court order for child support or for possession of or access to a child may result in further litigation to enforce the order, including contempt of court. A finding of contempt may be punished by confinement in jail for up to six months, a fine of up to $500 for each violation, and a money judgment for payment of attorney's fees and court costs.

"Failure of a party to make a child support payment to the place and in the manner required by a court order may result in the party not receiving credit for making the payment.

"Failure of a party to pay child support does not justify denying that party court-ordered possession of or access to a child. Refusal by a party to allow possession of or access to a child does not justify failure to pay court-ordered child support to that party."

(e) Except as provided by Subsection (c) of this section, a decree in a suit affecting the parent-child relationship that orders child support or possession of or access to a child must also contain the following in bold-faced type or in capital letters:

"Each person who is a party to this order or decree is ordered to notify the clerk of this court within 10 days after the date of any change in the party's current residence address, mailing address, home telephone number, name of employer, address of place of employment, or work telephone number. The duty to furnish this information to the clerk of the court continues as long as any person, by virtue of this order or decree, is under an obligation to pay child support or is entitled to possession of or access to a child. Failure to obey the order of this court to provide the clerk with the current mailing address of a party may result in the issuance of a capias for the arrest of the party if that party cannot be personally served with notice of a hearing at an address of record."

(f) The clerk of the court shall maintain a file of any information provided by a party under this section and shall, unless otherwise ordered by the court, provide the information on request, without charge, to a party, the attorney general, a domestic relations office, a child support collection office, or any other person designated to prosecute actions under the Revised Uniform Reciprocal Enforcement of Support Act (Chapter 21 of this code) or to enforce an order providing for child support or possession of or access to a child.

SECTION 13. Section 14.05, Family Code, is amended by amending Subsection (a) and adding Subsection (j) to read as follows:

(a) The court may order either or both parents to make periodic payments or, for good cause shown, order a lump-sum payment or purchase an annuity, or any combination of periodic payments, lump-sum payments, or annuity purchases[~~, or both,~~] for the support of the child until he or she is 18 years of age in the manner and to or for the benefit of the persons specified by the court in the decree. The court of continuing exclusive jurisdiction may render an original support order, modify an existing order, or render [~~or enter~~] a new order extending child support past the 18th birthday of the child, whether the request for such an order is filed before or after the child's 18th birthday, if the child is fully enrolled in an accredited secondary school in a program leading toward a high school diploma. The order for periodic support may provide that payments continue until the end of the school year in which the child graduates. In addition, the court may order a parent obligated to support a child to set aside property to be administered for the support of the child in the manner and by the persons specified by the court in the decree. In

determining the amount of child support, the court shall consider [~~all appropriate factors, including but not limited to~~] the child support guidelines in effect in this state [~~adopted by the supreme court, the needs of the child, the ability of the parents to contribute to the child's support, and any financial resources available for the support of the child~~].

(j) In any suit affecting the parent-child relationship, the amount of periodic child support payments established by the child support guidelines in effect in this state at the time of the hearing are presumed to be reasonable, and an order of support conforming to those guidelines is presumed to be in the best interest of the child. A presumption under this section is rebuttable.

SECTION 14. Section 14.053(b), Family Code, is amended to read as follows:

(b) Net Resources Defined. "Net resources," for the purpose of determining child support liability, are 100 percent of all wage and salary income and other compensation for personal services (including commissions, tips, and bonuses), interest, dividends, royalty income, self-employment income (as described in Subsection (c) of this section), net rental income (defined as rent after deducting operating expenses and mortgage payments, but not including noncash items such as depreciation), and all other income actually being received, including but not limited to severance pay, retirement benefits, pensions, trust income, annuities, capital gains, social security benefits, unemployment benefits, disability and workers' compensation benefits, interest income from notes but not including return of principal or capital and/or accounts receivable regardless of the source, gifts and prizes, spousal maintenance, and alimony, less (subtracting) 100 percent of social security taxes, federal income tax withholding for a single person claiming one personal exemption and the standard deduction, union dues, and expenses for health insurance coverage for the obligor's child. Benefits paid pursuant to aid for families with dependent children and any other child support received from any source shall be disregarded in calculating net resources.

SECTION 15. Subchapter A, Chapter 14, Family Code, is amended by adding Sections 14.061 and 14.062 to read as follows:

Sec. 14.061. HEALTH INSURANCE. (a) In any suit affecting the parent-child relationship, a court shall order that health insurance be provided for the child. The court shall consider the cost and quality of health insurance coverage available to the parties and shall give priority to health insurance coverage supplied by an employer of one of the parties.

(b) In determining the manner in which health insurance for the child is to be provided, the court shall consider the following factors:

(1) if health insurance is available for the child at the obligor's place of employment, the court may order the obligor to include the child in the obligor's health insurance; or

(2) if health insurance is not available for the child at the obligor's place of employment but is available for the child at the obligee's place of employment, the court may order the obligee to provide health insurance for the child and in addition may order the obligor to reimburse the obligee for the actual cost of the health insurance for the child; or

(3) if health insurance is not available for the child at either the obligor's or obligee's place of employment, the court may order the obligor to provide health insurance for the child to the extent that the insurance is available for the child from another source and the obligor is financially able to provide it.

(c) Any amount that an obligor is required to pay for health insurance for the child under this section is in addition to the amount that the obligor is required to pay for child support under the guidelines for child support and is a child support obligation and may be enforced as a child support obligation.

Sec. 14.062. REIMBURSEMENT FOR PUBLIC ASSISTANCE. (a) The court may order either or both parents to make periodic payments or a lump-sum payment as child support, or both, as reimbursement for public assistance paid by the state for the support of a child under Chapter 31, Human Resources Code.

(b) Unless the state is a party to an agreement concerning support or purporting to settle past, present, or future support obligations by prepayment or otherwise, an agreement between the parties does not reduce or terminate any right of this state or any other state to recover for public assistance provided.

SECTION 16. Section 14.08(i), Family Code, as amended by **S.B. No. 188**, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

(i) The power of the court to order a joint managing conservatorship under Section 14.021 of this code is a material and substantial change of circumstances sufficient to justify a modification of an existing sole managing conservatorship to a joint managing conservatorship [~~*under this section*~~] if the sole managing conservatorship was ordered in a suit affecting the parent-child relationship in which a final decree was rendered on or after [~~judgment was not entered on or before~~] September 1, 1987[~~, without regard to whether the suit was commenced before, on, or after September 1, 1987~~]. The power of the court to order a joint managing conservatorship under Section 14.021 of this code is not a material and substantial change of circumstances sufficient to justify a modification of an existing sole managing conservatorship to a joint managing conservatorship [~~under this section~~] if the sole managing conservatorship was ordered in a suit affecting the parent-child relationship in which a final decree [~~judgment~~] was rendered [~~entered on or~~] before September 1, 1987.

SECTION 17. Section 14.31, Family Code, is amended to read as follows:

Sec. 14.31. COMMENCEMENT OF [~~PROCEDURE IN~~] ENFORCEMENT PROCEEDINGS. [~~(a) Proceeding Commenced By Motion.~~] Enforcement proceedings under this subchapter shall be commenced by the filing of a motion to enforce a final order, judgment, or decree.

[~~(b) Pleading. (1) Contents of Motion. Motions under this subchapter shall be verified as to the truth of the facts alleged by the party seeking enforcement of the court order. The motion shall set out specifically and with particularity the provisions of the final order, decree, or judgment sought to be enforced and, in separate counts, the date, place, and, if applicable, the time of each occasion upon which the respondent has not complied with the order, the manner of the noncompliance, and the relief sought by the movant. The movant or the movant's attorney shall sign the motion. If the movant pleads that there have been repeated past violations of the court order, the movant may plead that anticipated future violations of a similar nature may arise between the filing of the motion and the date of the hearing. If a respondent specially excepts to the pleadings or moves to strike, the court shall rule on the exceptions or the motion before it hears the motion to enforce. If an exception is sustained, the court shall give the movant an opportunity to replead and continue the hearing to a designated date and time without the requirement of additional service.~~

[~~(2) Joinder of Claims and Remedies. A party seeking enforcement of a final court order under this subchapter may join in the same proceeding, either independently or alternately, as many claims and remedies as he has against another party, whether such claims arise under this chapter, other provisions of this subtitle, or other provisions or rules of law. Claims that may be joined include but are not limited to proceedings to:~~

[~~(A) enforce a child support order by contempt under Section 14.40 of this code;~~

[~~(B) reduce child support arrearages to judgment under Section 14.41 of this code;~~

[(C) require a person obligated to support a child to furnish bond or other security under Section 14.42 of this code;

[(D) require withholding from earnings under Section 14.43 or Subchapter C of this chapter;

[(E) enforce a right of possession of or access to a child by contempt under Section 14.50 of this code;

[(F) require a person to furnish bond or other security to ensure compliance with a court order for possession of and access to a child under Section 14.51 of this code;

[(G) transfer the proceeding because venue is improper under Section 11.06 of this code;

[(H) petition for further action concerning a child under Section 11.07 of this code;

[(I) modify an existing order or decree under Section 14.08 of this code;

[(J) petition for a writ of habeas corpus under Section 14.10 of this code;

[(K) recover damages under Chapter 36 of this code;

[(L) initiate procedures for withholding child support from earnings without the necessity of further action by the court under Sections 14.44 and 14.45 of this code; and

[(M) recover under any reciprocal enforcement of support act or interstate income withholding act whether as rendering or responding state.

[(c) Duty of Court on Filing of Motion. On the filing of a motion under this subchapter, the court shall order the time, place, and date of the hearing at which the respondent shall appear and respond to the motion. It is not necessary for the notice of hearing or show cause order to repeat the matters pleaded or prayed for in the motion for enforcement. The hearing shall be held no sooner than 10 a.m. of the Monday next after the expiration of 20 days from the date of service, except that if enforcement by contempt, income withholding, or both, are the only remedies sought by the movant, the court may direct the respondent to appear on a date not sooner than 10 days from the date of service to show cause why the motion for enforcement should not be granted.

[(d) Notice of Motion. A respondent or alleged contemnor is entitled to 10 days' notice of a proceeding under Rule 308-A of the Texas Rules of Civil Procedure or of a proceeding under this subchapter in which enforcement of child support by contempt, income withholding, or both are the only remedies sought. In all other proceedings the provisions of the Texas Rules of Civil Procedure applicable to the filing of an original lawsuit shall apply to a motion to enforce under this subchapter. Each party whose rights, privileges, duties, or powers may be affected by the motion to enforce is entitled to receive notice by the service of citation commanding the person to appear by filing a written answer, unless the proceeding is brought under Sections 14.44 and 14.45 of this code. An employer who may be directed to withhold income from earnings under Section 14.43 or 14.45 of this code need not be given notice of the proceedings prior to the issuance of an order or writ for income withholding. After the filing of an answer, the proceedings shall be conducted in the same general manner as in other civil cases.

[(e) Notice and Capias. When enforcement of any permanent order entered under this subtitle is sought, notice of any motion, other than a motion for contempt, is sufficient if it is given to respondent as provided by the Texas Rules of Civil Procedure. When enforcement of an order is sought by a motion for contempt, the respondent shall be personally served with notice directing the respondent to appear for a hearing at a designated time and place. If the respondent

~~fails to appear at the hearing at the time and place designated, the movant's attorney may request the issuance of a capias for the arrest of the respondent. If the court grants the request, it shall also set an appearance bond or security in a reasonable amount at the same time that the capias is issued. It shall be rebuttably presumed that an appearance bond or security in the amount of $1,000, or a cash bond in the amount of $250, is reasonable. The capias shall be treated by law enforcement officials in the same manner as a misdemeanor arrest warrant for a criminal offense, including entry in a local police or sheriff's computer record of outstanding warrants, but shall not be entered in a state or federal computer record of outstanding warrants. If the respondent is taken into custody and released on bond, the bond shall be conditioned on the respondent's promise to appear in court for a hearing on the merits as required by the court without the necessity of further personal service of notice on the respondent by an officer. If the respondent is taken into custody and not released on bond, the respondent shall be taken before the court that issued the capias on or before the first working day after the arrest for a release hearing to determine whether the respondent's appearance in court at a designated time and place can be assured by a method other than by posting the bond or security previously established. If the court makes this determination, the court may set a hearing on the alleged contempt for a designated time and place without the necessity of further notice to the respondent. If the court is not satisfied that the respondent's appearance in court can be assured and the respondent remains in custody, a hearing on the alleged contempt shall be held as soon as practicable, but not later than five days after the day that the respondent was taken into custody unless the accelerated hearing is waived by the respondent and by the attorney as provided by Section 14.32(f) of this code. If a cash bond has been posted and the respondent appears at the hearing as directed, and if the respondent is found to be in contempt for failure to pay child support as ordered, the court shall order the respondent to execute an assignment of the cash bond to the child support obligee or to a person designated by the court up to the amount of any child support arrearages determined to exist. If the respondent fails to appear at the hearing as directed and the appearance bond or security has been forfeited, and if the respondent has been found to be in contempt for failure to pay child support as ordered, the proceeds of any judgment on the bond or security shall be paid to the obligee or to a person designated by the court up to the amount of any child support arrearages determined to exist. The obligee may bring suit on the bond in his own right.]~~

SECTION 18. Subchapter B, Chapter 14, Family Code, is amended by adding Section 14.311 to read as follows:

Sec. 14.311. CONTENTS OF MOTIONS GENERALLY. (a) Information. A motion under this subchapter must give the respondent, in ordinary and concise language, notice of the provisions of the final order, decree, or judgment sought to be enforced, the manner of noncompliance, and the relief sought by the movant.

(b) Child Support Order. If enforcement of a child support order is sought, the motion must state the amount owed under the terms of the order, the amount paid, and the amount of arrearage. The movant is not required to plead or prove that the underlying order is enforceable by contempt to obtain other appropriate enforcement remedies.

(c) Payment Record. The movant may attach to the motion a copy of a record of child support payments maintained by a state or local child support registry. If a payment record is attached, it constitutes a prima facie showing of the facts asserted in the payment record, subject to the right of the respondent to offer controverting evidence, and may be admitted as evidence of the truth of payments made and not made as shown by the payment record.

(d) Signature. The movant or the movant's attorney must sign the motion.

(e) Anticipated Violations. If the movant pleads that there have been repeated past violations of the court order, the movant may plead that anticipated future violations of a similar nature may arise between the filing of the motion and the date of the hearing.

(f) Special Exceptions. If a respondent specially excepts to the pleadings or moves to strike, the court shall rule on the exception or the motion before it hears the motion to enforce. If an exception is sustained, the court shall give the movant an opportunity to replead and continue the hearing to a designated date and time without the requirement of additional service.

SECTION 19. Subchapter B, Chapter 14, Family Code, is amended by adding Section 14.312 to read as follows:

Sec. 14.312. MOTION FOR CONTEMPT. (a) Child Support. If contempt for failure to pay child support is sought, the motion must allege the portion of the order allegedly violated and must specify as to each date of alleged contempt the amount due and the amount paid, if any.

(b) Other Motions. If contempt for failure to obey an order relating to possession of or access to a child or for violation of other provisions of a final order, decree, or judgment is sought, the motion must allege the portion of the order allegedly violated, and, as to each violation for which punishment is sought, the date, place, and, if applicable, the time of each occasion on which the respondent has not complied with the order.

SECTION 20. Subchapter B, Chapter 14, Family Code, is amended by adding Section 14.313 to read as follows:

Sec. 14.313. JOINDER OF CLAIMS AND REMEDIES. (a) Discretionary Joinder. A party seeking enforcement of a final court order under this subchapter may join in the same proceeding, either independently or alternately, as many claims and remedies as the party has against another party, whether the claims arise under this chapter, other provisions of this subtitle, or other provisions or rules of law.

(b) Claims. Claims that may be joined include proceedings to:

(1) enforce a child support order by contempt under Section 14.40 of this code;

(2) reduce child support arrearages to judgment under Section 14.41 of this code;

(3) require a person obligated to support a child to furnish bond or other security under Section 14.42 of this code;

(4) require withholding from earnings under Section 14.43 or Subchapter C of this chapter;

(5) enforce a right of possession of or access to a child by contempt under Section 14.50 of this code;

(6) require a person to furnish bond or other security to ensure compliance with a court order for possession of or access to a child under Section 14.51 of this code;

(7) transfer the proceeding because venue is improper under Section 11.06 of this code;

(8) petition for further action concerning a child under Section 11.07 of this code;

(9) modify an existing order or decree under Section 14.08 of this code;

(10) petition for a writ of habeas corpus under Section 14.10 of this code;

(11) recover damages under Chapter 36 of this code;

(12) initiate procedures for withholding child support from earnings without the necessity of further action by the court under Sections 14.44 and 14.45 of this code; and

(13) recover under any reciprocal enforcement of support act or interstate income withholding act whether as rendering or responding state.

SECTION 21. Subchapter B, Chapter 14, Family Code, is amended by adding Section 14.314 to read as follows:

Sec. 14.314. MOTION FOR ENFORCEMENT OF EXISTING COURT ORDER. (a) Setting the Hearing. On the filing of a motion under this subchapter for enforcement of an existing court order with regard to possession of or access to a child or child support, the court shall order the time, place, and date of the hearing at which the respondent shall appear and respond to the motion. It is not necessary for the notice of hearing or show cause order to repeat the matters pleaded or prayed for in the motion for enforcement.

(b) Notice of Hearing, Personal Service. Except as provided by Subsection (c) of this section, notice of a motion seeking enforcement of an existing court order providing for child support, possession of, or access to a child shall be personally served on the respondent before the 10th day before the date of a hearing on the motion.

(c) Notice of Hearing, First Class Mail. If a party has been ordered under Section 11.155 of this code to provide the clerk of the court with the party's current mailing address, notice of a motion seeking enforcement of an existing court order providing for child support or for possession of or access to a child may be served by mailing a copy of the notice to the respondent, together with a copy of the motion, by first class mail to the last mailing address of the respondent on file with the clerk of the court. The clerk of the court, movant's attorney, or any person entitled to the address information as provided by Section 11.155 of this code may send the notice. A person who sends the notice shall file of record a certificate of service showing the date of mailing and the name of the person who sent the notice. A party who appears at the hearing at the time and place designated by the first class mail notice and who is present when the case is called makes a general appearance for all purposes in the enforcement proceeding.

(d) Contents of Notice by Mail. A notice sent under Subsection (c) of this section must, in plain and concise language, state the time, date, and place of the hearing and the following: "This notice is a request for you to appear at the designated time, date, and place of the hearing set out in this notice in order to defend yourself against the allegations made against you in the attached or enclosed motion. You are not required to appear at this hearing; however, if you do not appear, a sheriff or constable may and probably will formally serve a court order on you at your place of residence or employment, or wherever you may be found, requiring you to appear at another hearing to defend yourself against the motion. If a sheriff or constable has to serve you, the court may require you to pay for the cost of the service. If you choose to appear at the hearing set out in this notice, you will have made a formal and legal appearance in court. In this case, no further service of the enclosed motion will have to be made on you. If you do appear at the hearing set out in this notice, you should be aware of the following: (1) you do not have to talk to the party who filed the motion against you or that party's attorney and, if you do talk with them, anything you say may and probably will be used against you; (2) you have the right to be represented by your own attorney; (3) if the motion seeks to have you held in contempt and jailed or fined, the judge may appoint an attorney to represent you if you can prove to the judge that you cannot afford an attorney; and (4) you may have the hearing at the time, date, and place in this notice, or, on your request, the court must set a hearing at a later time of not less than five days in the future; if the judge does set the hearing in the future and you do not appear at that future hearing, the judge may order a sheriff or constable to arrest you and bring you to court for a hearing on the motion. You are advised to consult with an attorney in order to understand all of your rights before making any decision under this notice."

(e) Failure to Appear After First Class Mail Notice. If a respondent who has been sent notice by first class mail to appear at a hearing does not appear at the designated time, place, and date to respond to a motion seeking enforcement of an existing court order, personal service of notice of a hearing as provided by Subsection (b) of this section shall be attempted.

SECTION 22. Subchapter B, Chapter 14, Family Code, is amended by adding Section 14.315 to read as follows:

Sec. 14.315. MOTION FOR ENFORCEMENT JOINED WITH OTHER CLAIMS OR REMEDIES. (a) Contents. If a motion for enforcement has been joined with other claims, the court shall order the time, place, and date of the hearing at which the respondent shall appear and respond to the motion. It is not necessary for the notice of hearing or show cause order to repeat the matters pleaded or prayed for in the motion for enforcement.

(b) Hearing. The hearing may be held no sooner than 10 a.m. of the Monday next after the expiration of 20 days after the date of service.

(c) Notice. In a proceeding under this section, the provisions of the Texas Rules of Civil Procedure applicable to the filing of an original lawsuit apply, and each party whose rights, privileges, duties, or powers may be affected by the claim is entitled to receive notice by service of citation commanding the person to appear by filing a written answer.

SECTION 23. Subchapter B, Chapter 14, Family Code, is amended by adding Section 14.316 to read as follows:

Sec. 14.316. NOTICE OF MOTION TO EMPLOYER. An employer who may be directed to withhold income from earnings under Section 14.43 or 14.45 of this code need not be given notice of the proceedings before the issuance of an order or writ for income withholding.

SECTION 24. Subchapter B, Chapter 14, Family Code, is amended by adding Section 14.317 to read as follows:

Sec. 14.317. FAILURE OF RESPONDENT TO APPEAR; CAPIAS. (a) Notice by Personal Service. If a respondent who has been personally served with notice to appear at a hearing at a designated time, place, and date to respond to a motion for enforcement, whether the motion is joined with other claims and remedies or only seeks enforcement of an existing court order, does not appear, the court may on proper proof grant default judgment for the relief sought and issue a capias for the arrest of the respondent. The court may not adjudicate the respondent in contempt.

(b) Personal Service Unsuccessful After Order to Provide Mailing Address. The court shall issue a capias for the arrest of a party if:

(1) the party is allegedly in arrears in court-ordered child support payments;

(2) the party has been ordered under Section 11.155 of this code to provide the clerk of the court with the party's current mailing address;

(3) the party did not appear at the hearing; and

(4) subsequently an attempt to serve notice of the hearing by personal service on the party has been unsuccessful despite diligent efforts to serve process at the latest address on file with the clerk and at any other address known to the moving party at which the respondent may be served.

(c) No Notice. The court may not adjudicate the party in contempt in absentia, nor may the court grant a default judgment against a party for any other relief sought in the absence of service of notice of the hearing or an answer or appearance by the party.

(d) Duty of Law Enforcement Officials. The capias shall be treated by law enforcement officials in the same manner as an arrest warrant for a criminal offense,

including entry in a local police, sheriff's, or state computer record of outstanding warrants.

(e) Capias Fee. The fee for a capias issued under this section is the same as the fee for issuance of a writ under Section 51.317, Government Code. The fee for service of a capias issued under this section is the same as the fee for service of a writ in civil cases generally.

SECTION 25. Subchapter B, Chapter 14, Family Code, is amended by adding Section 14.318 to read as follows:

Sec. 14.318. BOND OR SECURITY; RELEASE OF RESPONDENT. (a) Appearance Bond or Security. If the court issues a capias, it shall also set an appearance bond or security in a reasonable amount at the same time that the capias is issued. An appearance bond or security in the amount of $1,000 or a cash bond in the amount of $250 is presumed to be reasonable. Evidence that the respondent has attempted to evade service of process, has previously been found guilty of contempt, or has accrued arrearages under a child support obligation over $1,000 is sufficient to rebut the presumption. If the court finds that the presumption is rebutted, the court shall set bond that is reasonable under the circumstances.

(b) Conditional Release. If the respondent is taken into custody and released on bond, the bond shall be conditioned on the respondent's promise to appear in court for a hearing on the merits as required by the court without the necessity of further personal service of notice on the respondent.

(c) Release Hearing. If the respondent is taken into custody and not released on bond, the respondent shall be taken before the court that issued the capias on or before the first working day after the arrest for a release hearing to determine whether the respondent's appearance in court at a designated time and place can be assured by a method other than by posting the bond or security previously established. If the court makes this determination, the court may set a hearing on the alleged contempt for a designated time and place without the necessity of further notice to the respondent. If the court is not satisfied that the respondent's appearance in court can be assured and the respondent remains in custody, a hearing on the alleged contempt shall be held as soon as practicable, but not later than the fifth day after the date that the respondent was taken into custody unless the accelerated hearing is waived by the respondent and by the attorney as provided by Section 14.32(f) of this code.

(d) Cash Bond as Support. If a cash bond has been posted and the respondent appears at the hearing as directed and if the respondent is found to be in contempt for failure to pay child support as ordered, the court shall order the respondent to execute an assignment of the cash bond to the child support obligee or to a person designated by the court up to the amount of any child support arrearages determined to exist.

(e) Appearance Bond or Security as Support. If the respondent fails to appear at the hearing as directed and the appearance bond or security has been forfeited and if the respondent has been found to be in contempt for failure to pay child support as ordered, the proceeds of any judgment on the bond or security shall be paid to the obligee or to a person designated by the court up to the amount of any child support arrearages determined to exist. The obligee may bring suit on the bond.

SECTION 26. Section 14.32(b), Family Code, is amended to read as follows:

(b) Court Reporter. An [~~Except when entry of an order is agreed on by the parties, no~~] enforcement order under this subchapter may not [~~shall~~] be entered if [~~unless~~] a record of the proceedings is not made by a court reporter or as provided by Subchapter A, Chapter 54, Government Code, unless:

(1) the parties agree on entry of the order; or

(2) if the order seeks incarceration, the parties waive the requirement at the time of the hearing either in writing or in open court and with the approval of the court.

SECTION 27. Section 14.33(a), Family Code, is amended to read as follows:

(a) Contents. An enforcement order shall contain findings setting out in ordinary and concise language [~~specifically and with particularity or incorporating by reference~~] the provisions of the final order, decree, or judgment for which enforcement was sought, the acts or omissions that are the subject of the order, the manner of noncompliance [~~and the time, date, and place of each and any occasion on which the respondent failed to comply with such provision~~], and [~~setting out~~] the relief awarded by the court. If the order imposes incarceration or a fine, an enforcement order must contain findings setting out specifically and with particularity or incorporating by reference the provisions of the final order, decree, or judgment for which enforcement was sought and the time, date, and place of each occasion on which the respondent failed to comply with the provision and setting out the relief awarded by the court.

SECTION 28. Section 14.41(b), Family Code, is amended to read as follows:

(b) Time Limitations. The court may not confirm the amount of child support in arrears and may not enter a judgment for unpaid child support payments that were due and owing more than 10 years before the filing of the motion to render judgment under this section. The court retains jurisdiction to enter judgment for past-due child support obligations if a motion to render judgment for the arrearages is filed within four [~~two~~] years after:

(1) the child becomes an adult; or

(2) the date on which the child support obligation terminates pursuant to the decree or order or by operation of law.

SECTION 29. Section 14.43, Family Code, is amended by amending Subsections (d), (g), (l), and (n) and adding Subsection (r) to read as follows:

(d) Withholding for Arrearages. In addition to income withheld for the current support of a child, in appropriate circumstances and in accordance with the guidelines established for child support payments as provided in Subsection (a) of Section 14.05 of this code, the court shall enter an order that income be withheld from the disposable earnings of the obligor to be applied toward the liquidation of any child support arrearages. The additional amount to be withheld to be applied towards arrears shall be sufficient to fully discharge those arrears in not more than two years or add 20 percent to the amount of the current monthly support order, whichever will result in the arrears being fully discharged in the least amount of time consistent with the limitations on the maximum amount that may be withheld from earnings as provided by Subsection (f) of this section. If current support is no longer owed, the court shall enter an order that income be withheld from the disposable earnings of the obligor to be applied toward the liquidation of any child support arrearages in an amount sufficient to fully discharge those arrears in not more than two years, consistent with the limitations on the maximum amount that may be withheld from earnings as provided by Subsection (f) of this section. If the court finds that such a repayment schedule would cause the obligor, the obligor's family, or children for whom support is due from the obligor to suffer unreasonable hardship, the court may extend the repayment period for a reasonable length of time.

(g) Issuance of Order. On the request of the prosecuting attorney, the attorney general, the obligor, or the obligee, the clerk of the court shall cause a certified copy of the order withholding income from earnings to be delivered to the obligor's current employer or to any subsequent employer of the obligor. In addition, the clerk shall attach a copy of this section to the order for the information of the employer. The clerk shall issue and mail the certified copy of the order not later than

the second working day after the date the order is signed or the request is filed, whichever is later.

(l) Liability and Obligation of Employer for Payments. An employer receiving an order under this section or a writ under Section 14.45 who complies with the order or writ is not liable to the obligor for the amount of income withheld and paid as provided in the order or writ. An employer who received an order or writ of withholding and who does not comply with the order or writ is liable to the obligee for the amount not paid in compliance with the order or writ or to the obligor for the amount withheld and not paid and for reasonable attorney's fees and court costs. An employer receiving two or more orders or writs on any named obligor shall comply with every order or writ to the maximum extent possible. If the total amount in the orders or writ exceeds the maximum amount allowable to be withheld under this section, the employer shall pay an equal amount towards the current support portion of all orders or writs until each order is individually complied with, and thereafter equal amounts on the arrearage portion of all orders until each order or writ is complied with, or until the maximum total amount of allowable withholding under Subsection (f) of this section is reached, whichever occurs first. If an employer is ordered to withhold from more than one obligor, the employer may combine the withheld amounts from the obligors' wages and make a single payment to each appropriate agency requesting withholding if the employer separately identifies the amount of the payment that is attributable to each obligor.

(n) Fine for Employers. In addition to the civil remedies provided by Subsections (l) and (m) of this section or by any other remedy provided by law, an employer who knowingly violates the provisions of those subsections may [~~shall~~] be subject to a fine not to exceed $50 for each occurrence in which the employer fails to withhold. Any fines recovered under this subsection shall be paid to the obligee and credited against any amounts owed by the obligor.

(r) Time Limitations. The court retains jurisdiction to enter an order that provides for income to be withheld from the disposable earnings of the obligor if the motion for income withholding is filed before the fourth anniversary of the date:

(1) the child becomes an adult;

(2) the child support obligation terminates under the decree or order or by operation of law; or

(3) an order withholding income under this section was rendered or a writ of income withholding was issued under Section 14.45 of this code and arrears have not been fully discharged.

SECTION 30. Section 14.44, Family Code, is amended by adding Subsections (g) and (h) to read as follows:

(g) Time Limitations. A notice of delinquency must be filed not later than the fourth anniversary of the date:

(1) the child becomes an adult;

(2) the child support obligation terminates under the decree or order or by operation of law; or

(3) an order for income withholding was rendered under Section 14.43 of this code or a writ of income withholding was issued under this section and arrears have not been fully discharged.

(h) Interstate Requests for Income Withholding. In a proceeding initiated under Part D of Title IV of the federal Social Security Act (42 U.S.C. Section 651 et seq.), the registration of a foreign support order under Chapter 21 of this code is sufficient for the filing by the attorney general of a notice of delinquency under this section. The notice shall be filed with the clerk of the court having venue under Chapter 21 of this code. Notice of delinquency as provided in this section may be delivered to the obligor at the same time that an order is filed for registration under Chapter 21 of this code.

SECTION 31. Section 14.45(c), Family Code, is amended to read as follows:

(c) Withholding for Arrearages. In addition to withholding for current child support, the writ of income withholding shall require an additional amount to be withheld to be applied towards the arrearage sufficient to fully discharge those arrears in not more than two years or add 20 percent of the amount of current monthly support order, whichever will result in the arrears being fully discharged in the least amount of time. If current child support is no longer owed, the writ of income withholding shall require that income be withheld from the disposable earnings of the obligor to be applied toward the liquidation of any child support arrearages in an amount sufficient to fully discharge those arrears in not more than two years, consistent with the limitations on the maximum amount that may be withheld from earnings as provided by Section 14.43(f) of this code. If [~~However,~~ if] the attorney general finds that the obligor, the obligor's family, or the children for whom the support is due would suffer unreasonable hardship from such a schedule of repayment, the attorney general may request an extended repayment schedule to be instituted by the writ.

SECTION 32. Section 14.82, Family Code, is amended by amending Subsections (a), (b), (c), and (f) to read as follows:

(a) The presiding judge of each administrative judicial region, after conferring with the judges of courts in the region having jurisdiction of Title IV-D cases, shall determine which courts require the appointment of a full-time or part-time master to complete each Title IV-D case within the time specified in Section 14.81 of this code. The presiding judge may limit the appointment to a specified time period and may terminate an appointment at any time. A master appointed under this subchapter may be appointed to serve more than one court. Two or more judges of administrative judicial regions may jointly appoint one or more masters to serve the regions.

(b) If the presiding judge determines that a court requires a master, the presiding judge shall appoint a master. If a master is appointed, the judge of the court shall refer all Title IV-D cases to the master. A master may be appointed to serve more than one court and in more than one administrative judicial region.

(c) The provisions of Subchapter A, Chapter 54, Government Code, relating to the qualifications, powers, and immunity of a master apply to a master appointed under this section, except that a master may reside anywhere within the administrative judicial region in which the court to which the master is appointed is located. If a master is appointed to serve in two or more administrative judicial regions, the master may reside anywhere within the regions.

(f) The master shall take testimony and establish a record in all Title IV-D cases. The record shall be made in accordance with Subchapter A, Chapter 54, Government Code.

SECTION 33. Section 21.39(b), Family Code, is amended to read as follows:

(b) Promptly on registration the clerk of the court shall send by certified or registered mail to the obligor at the address given a notice of the registration with a copy of the registered support order and the post office address of the obligee. He shall endorse on the registered support order a file number, the day on which it was filed, and the time of filing, shall sign his name officially thereto, [~~also docket the case~~] and notify the prosecuting attorney of his action. The prosecuting attorney shall proceed diligently to enforce the order.

SECTION 34. Section 21.002(f), Government Code, is amended to read as follows:

(f) Article 42.033 [~~Section 5, Article 42.03~~], Code of Criminal Procedure, [~~1965,~~] and Chapter 14 [~~Section 14.12~~], Family Code, apply when a person is punished by confinement for contempt of court for disobedience of a court order to make periodic payments for the support of a child.

SECTION 35. Section 24.013(a), Government Code, is amended to read as follows:

(a) A judge may, in vacation with the consent of the parties to a case:

(1) exercise powers, issue orders, and perform acts as fully as in termtime; and

(2) try any civil case[~~, except divorce cases,~~] without a jury and enter final judgment.

SECTION 36. Section 54.005(b), Government Code, is amended to read as follows:

(b) The judge of a court having a master appointed may also refer to the master a trial on the merits over which the master may preside unless one or more parties files a written objection to the master hearing the trial. A party may file an objection at any time before trial but not later than the 10th day after the date the party receives notice that the master will hear the trial. If an objection is filed, the trial on the merits shall be heard by the referring court. A trial on the merits is any final adjudication from which an appeal may be taken to a court of appeals.

SECTION 37. Chapter 32, Human Resources Code, is amended by adding Section 32.040 to read as follows:

Sec. 32.040. IDENTIFICATION OF HUSBAND OR ALLEGED FATHER. (a) A woman receiving medical assistance in the form of prenatal care, child delivery care, and obstetrical care related to prenatal care and child delivery care shall identify her husband, or, if unmarried, shall provide the name and last known address of the alleged father of the unborn child.

(b) If the woman receiving medical assistance is under 18 years of age and resides with one or both parents, the parents shall cooperate in identifying the husband or the alleged father.

SECTION 38. Section 76.004, Human Resources Code, is amended to read as follows:

Sec. 76.004. CHILD SUPPORT SERVICES [~~FOR PERSONS NOT RECEIVING ASSISTANCE~~]. (a) The attorney general's office on request or as otherwise authorized by law may provide parent locator, child support [~~collection~~], or paternity determination services for the benefit of a child without regard to whether the child has received [~~available to a person other than an applicant for or a recipient of~~] financial assistance under Chapter 31 of this code. The office may charge a reasonable application fee and recover costs for the services provided. An application for child support services under this section is an assignment of support rights as provided by Section 76.003 of this code but does not constitute an assignment under Chapter 31 of this code or 45 C.F.R. Section 232.11. An assignment under Chapter 31 of this code or 45 C.F.R. Section 232.11 may not be made a condition of eligibility for services under this section.

(b) The attorney general may perform the duties and functions contemplated of a state for locating children under agreements with the federal government entered as provided by 42 U.S.C. Section 663. The attorney general may charge a reasonable application fee not to exceed $25 and recover costs for the services provided. [~~In its administration of the federal Parent Locator Service for the enforcement or determination of child custody in cases of parental kidnapping of a child, the attorney general shall provide parent locator services to a person who presents evidence to the attorney general's office showing that the person is entitled to possession of a child under a court order, but is unable to locate the child because of the taking or retaining of possession of the child or concealment of the whereabouts of the child in violation of the court order. The attorney general may charge a reasonable application fee and recover costs for the services provided.~~]

SECTION 39. Section 76.006, Human Resources Code, as amended by **S.B. 401**, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 76.006. CONFIDENTIALITY OF RECORDS AND PRIVILEGED COMMUNICATIONS. (a) All files and records of services [~~on recipients of benefits~~] provided under this chapter, including information concerning a custodial parent, noncustodial parent, child, and [~~on~~] an alleged father of a child who has no presumed father, are confidential.

(b) All communications made by a recipient of financial assistance under Chapter 31 of this code or an applicant for services under Section 76.004 of this chapter are privileged.

(c) Release of information from the files and records shall be restricted to purposes directly connected with the administration of the child support [~~collection~~], paternity determination, parent locator, or aid to families with dependent children programs.

(d) The attorney general by rule may provide for the release of information to public officials.

SECTION 40. Section 77.001(a), Human Resources Code, is amended to read as follows:

(a) The state agency designated to administer a statewide plan for child support may establish and conduct a parent locator service which shall be used to obtain information as to the whereabouts, income, and holdings of any person when such information is to be used for the purposes of locating such person and establishing or enforcing a support or medical support obligation [~~collection~~] against such person.

SECTION 41. Subdivision (2), Subsection (d), Section 1, Article 3.51-6, Insurance Code, is amended to read as follows:

(2) No group policy of accident, health, or accident and health insurance, including group contracts issued by companies subject to Chapter 20, Insurance Code, as amended, shall be delivered in this state unless it contains in substance the following provisions or provisions which in the opinion of the commissioner are more favorable to the persons insured or at least as favorable to the persons insured and more favorable to the policyholder; provided, however, that (A) provisions (v), (xi), and (xiv) shall not apply to policies issued to a creditor to insure debtors of such creditor; (B) provision (xi) shall not apply to Chapter 20 companies; (C) the standard provisions required for individual health insurance policies shall not apply to group health insurance policies; and (D) if any provision of this section is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy, the insurer, with the approval of the commissioner, shall omit from such policy an inapplicable provision or part of a provision and shall modify an inconsistent provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy:

(i) a provision that premiums due under the policy shall be remitted on or before the due date by the premium payors as designated in the policy and within such period of grace as may be specified therein;

(ii) a provision that the validity of the policy shall not be contested except for nonpayment of premiums after it has been in force for two years from its date of issue and that in the absence of fraud no statement made by any person covered by the policy relating to his or her insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest for a period of two years during such person's lifetime nor unless it is contained in a written instrument signed by him or her; provided, however, that no such provision shall preclude the assertion at any time of defenses based upon: (aa) provisions in the policy which relate to eligibility for coverage; (bb) provisions in group accident and health insurance or disability insurance policies which relate to overinsurance; (cc)

provisions of disability policies which relate to the relation of earnings to insurance; or (dd) other similar provisions in such policies that limit the amounts of recovery from all sources to no more than 100 percent of the total actual losses or expenses incurred;

(iii) a provision that the policy and any application attached shall constitute the entire contract between the parties and that in the absence of fraud all statements made by the policyholder or person insured shall be deemed representations and not warranties, and that no such statement shall be used in any contest under the policy, unless a copy of the written instrument containing the statement is or has been furnished to such person or in the event of death or incapacity of the insured person to the individual's beneficiary or personal representative;

(iv) a provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of the coverage;

(v) a provision specifying the additional exclusions or limitations, if any, applicable under the policy with respect to a disease or physical condition of a person, not otherwise excluded from the person's coverage by name or specific description effective on the date of the person's loss, which existed prior to the effective date of the person's coverage under the policy. Any such exclusion or limitation may only apply to a disease or physical condition for which medical advice or treatment was received by the person during the 12 months prior to the effective date of the person's coverage. In no event shall such exclusion or limitation apply to loss incurred or disability commencing after the earlier of: (aa) the end of a continuous period of 12 months commencing on or after the effective date of the person's coverage during all of which the person has received no medical advice or treatment in connection with such disease or physical condition; and (bb) the end of the two-year period commencing on the effective date of the person's coverage;

(vi) if the premiums or benefits vary by age, a provision specifying an equitable adjustment of premiums or of benefits, or both, to be made in the event the age of a covered person has been misstated, such provision to contain a clear statement of the method of adjustment to be used;

(vii) a provision that written notice of claim must be given to the insurer within 20 days after the occurrence or commencement of any loss covered by the policy. Failure to give notice within such time shall not invalidate or reduce any claim if it shall be shown not to have been reasonably possible to give such notice and that notice was given as soon as was reasonably possible;

(viii) a provision that the insurer will furnish to the person making claim or to the policy holder for delivery to such person such forms as are usually furnished by it for filing proof of loss. If such forms are not furnished before the expiration of 15 days after the insurer received notice of any claim under the policy, the person making such claim shall be deemed to have complied with the requirements of the policy as to proof of loss upon submitting within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, character, and extent of the loss for which claim is made.

(ix) a provision that in the case of claim for loss of time for disability, written proof of such loss must be furnished to the insurer within the 90 days after the commencement of the period for which the insurer is liable, that subsequent written proofs of the continuance of such disability must be furnished to the insurer at such intervals as the insurer may reasonably require, and that in the case of claim for any other loss written proof of such loss must be furnished to the insurer within 90 days after the date of such loss. Failure to furnish such proof

within such time shall not invalidate or reduce any claim if it was not reasonably possible to furnish such proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity of the claimant, later than one year from the time proof is otherwise required;

(x) a provision that all benefits payable under the policy other than benefits for loss of time shall be payable not more than 60 days after receipt of proof, that, subject to due proof of loss, all accrued benefits payable under the policy for loss of time shall be paid not less frequently than monthly during the continuance of the period for which the insurer is liable, and that any balance remaining unpaid at the termination of such period shall be paid as soon as possible after receipt of such proof;

(xi) a provision that benefits for loss of life of the person insured shall be payable to the beneficiary designated by the person insured or the assignee. However, if the policy contains conditions pertaining to family status the beneficiary may be the family member specified by the policy terms. In either case, payment of these benefits is subject to the provisions of the policy. In the event no such designated or specified beneficiary is living at the death of the person insured, the benefits shall be payable to the estate of the insured. All other benefits of the policy shall be payable to the person insured or the assignee. The policy may also provide that if any benefit is payable to the estate of a person or to a person who is a minor or otherwise not competent to give a valid release, the insurer may pay such benefit, up to an amount established by the board, to any relative by blood or connection by marriage of such person who is deemed by the insurer to be equitably entitled thereto;

(xii) a provision that the insurer shall have the right and opportunity to examine the person of the individual for whom claim is made when and so often as it may reasonably require during the pendency of claim under the policy and also the right and opportunity to make an autopsy in case of death where it is not prohibited by law;

(xiii) a provision that no action at law or in equity shall be brought to recover on the policy prior to the expiration of 60 days after proof of loss has been filed in accordance with the requirements of the policy and that no such action shall be brought at all unless brought within three years from the expiration of the time within which proof of loss is required by the policy;

(xiv) a provision describing the conversion or extension of coverage option elected by the insurer in accordance with Subdivision (3) of Subsection (d) of this section; and

(xv) a provision that, in determining the dependents or the beneficiaries of an insured, or both, prohibits a distinction on the basis of the marital status or the lack of marital status between the insured and the other parent.

SECTION 42. Chapter 3, Insurance Code, is amended by adding Article 3.51-13 to read as follows:

Art. 3.51-13. BENEFIT PAYMENTS TO PARENT OF A MINOR

Sec. 1. An insurer or group hospital service company that delivers, issues for delivery, or renews a group accident and sickness insurance policy in this state, including a policy issued by a company subject to Chapter 20 of this code, that provides coverage for a minor child who otherwise qualifies as a dependent of a person who is a member of the group may pay benefits on behalf of the child to the person who is not a member of the group if a court order providing for the managing conservator of the child has been issued by a court of competent jurisdiction in this or any other state.

Sec. 2. A group accident and sickness insurance policy issued by an insurer or group hospital service company may be required to pay benefits pursuant to the

terms of the policy and as provided by this article on compliance by the person who is not a member of the group with the requirements of this article, claim application procedures of the insurer or company, and rules of the State Board of Insurance. However, any requirements imposed on the managing conservator of the child shall not apply in the case of any unpaid medical bill for which a valid assignment of benefits has been exercised in accordance with policy provisions or otherwise, nor to claims submitted by the group member where the group member has paid any portion of a medical bill that would be covered under the terms of the policy.

Sec. 3. Before a person who is not a member of a group is entitled to be paid benefits under Section 1 of this article, the person must submit to the insurer or company with the claim application written notice that the person:

(1) is the managing conservator of the child on whose behalf the claim is made; and

(2) submit a certified copy of a court order establishing the person as managing conservator or other evidence designated by rule of the State Board of Insurance that the person qualifies to be paid the benefits as provided by this article.

Sec. 4. The State Board of Insurance may adopt rules to assure the effective implementation of this article.

SECTION 43. Chapter 46, Human Resources Code, is repealed.

SECTION 44. (a) Except as provided by Subsections (b) and (c) of this section, this Act takes effect November 1, 1989, and applies to a suit or action pending or filed on or after that date.

(b) Sections 1 through 8 of this Act take effect September 1, 1989, if this Act is adopted by the numbers of votes in each house sufficient for that effective date under Article III, Section 39, of the Texas Constitution.

(c) Section 37 of this Act takes effect January 1, 1990. The Board of Human Services may adopt rules to implement Section 32.040, Human Resources Code, in anticipation of its effective date.

SECTION 45. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The amendments were read.

On motion of Senator Krier and by unanimous consent, the Senate concurred in the House amendments to **S.B. 67** viva voce vote.

## SENATE BILL 95 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business and Senate Rule 7.13 were suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 95**, Relating to the transfer of assets and a cause of action and liability for a fraudulent transfer.

The bill was read second time.

Senator Brown offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **S.B. 95** First Called Session by deleting lines 11 through 14, both inclusive, on page 1, and substitute in lieu thereof the following:

"(d) 'Reasonably equivalent' value includes without limitation a transfer or obligation that is within the range of values for which the transferor would have ~~willfully~~ sold the asset in an arm's length transaction."

The committee amendment was read and was adopted viva voce vote.

Senator Brown offered the following committee amendment to the bill:

**Committee Amendment No. 2**

Amend **S.B. 95** First Called Session by deleting lines 17 through 21, both inclusive, on page 1, and substitute in lieu thereof the following:

"(a) A transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose [~~within a reasonable time~~] before or within a reasonable time after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation:"

The committee amendment was read and was adopted viva voce vote.

On motion of Senator Brown and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

**SENATE BILL 95 ON THIRD READING**

Senator Brown moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 95** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Glasgow, Green, Parmer, Washington, Whitmire.

The bill was read third time and was passed viva voce vote.

**SENATE BILL 102 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business and Senate Rule 7.13 were suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 102**, Relating to the creation, administration, powers, duties, operation, and financing of the Williamson-Travis Counties Water Control and Improvement District No. 1.

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

Amend **S.B. 102** by adding a new SECTION 12 to read as follows and renumbering the current SECTION 12 as SECTION 13.

SECTION 12. BUILDING CODES. Building codes and building inspection ordinances in effect within the City of Austin shall be in effect and in force within the Williamson-Travis County Water Control and Improvement District No. 1 and may be enforced by the City of Austin in a manner consistent with their enforcement within the City.

The amendment was read and was adopted viva voce vote.

On motion of Senator Barrientos and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

## SENATE BILL 102 ON THIRD READING

Senator Barrientos moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 102** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Glasgow, Green, Parmer, Washington, Whitmire.

The bill was read third time and was passed viva voce vote.

## SENATE BILL 104 ON SECOND READING

On motion of Senator Sims and by unanimous consent, the regular order of business and Senate Rule 7.13 were suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 104**, Relating to the McCamey County Hospital District.

The bill was read second time and was passed to engrossment viva voce vote.

## SENATE BILL 104 ON THIRD READING

Senator Sims moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 104** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Glasgow, Green, Parmer, Washington, Whitmire.

The bill was read third time and was passed viva voce vote.

## SENATE BILL 98 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business and Senate Rule 7.13 were suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 98**, Relating to the authority of navigation districts.

The bill was read second time and was passed to engrossment viva voce vote.

## SENATE BILL 98 ON THIRD READING

Senator Armbrister moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 98** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Glasgow, Green, Parmer, Washington, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 0. (Same as previous roll call)

## HOUSE BILL 26 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business and Senate Rule 7.13 were suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 26**, Making technical corrections to Article 2351a-9, Revised Statutes, relating to the provision of emergency services in counties of 125,000 persons or less.

The bill was read second time.

Senator Armbrister offered the following amendment to the bill:

Amend **H.B. 26** by striking all below the enacting clause and substitute the following:

SECTION 1. Sections 776.014(a), (b), (d), and (e), Health and Safety Code, are amended to read as follows:

(a) When creation of a district that contains territory within a municipality's limits or extraterritorial jurisdiction is proposed, a written request to include [~~exclude~~] that territory in [~~from~~] the district must be presented to the municipality's governing body. Except as provided by Subsection (c), that territory may not be included in the district unless the municipality's governing body in writing approves the request for inclusion [~~exclusion~~] not later than the 60th day after the date on which the request is received.

(b) If the municipality's governing body does not approve the request for inclusion [~~exclusion~~] within the period prescribed by Subsection (a), a majority of the qualified voters and the owners of at least 50 percent of the territory that is in the municipality's limits or extraterritorial jurisdiction and that is to be included in the district may petition the governing body to make emergency services available to their territory. The petition must be submitted to the governing body not [~~earlier than the 61st nor~~] later than the 90th day after the date on which the municipality receives the request.

(d) If the proposed district will include territory designated by a municipality as an industrial district under Section 42.044, Local Government Code, a request for inclusion [~~exclusion~~] of that territory must be presented to the municipality's governing body in the same manner provided by this section for territory within the limits or extraterritorial jurisdiction of a municipality.

(e) If the municipality's governing body consents to the inclusion in [~~fails to exclude from~~] the proposed district of territory within the municipality's limits or extraterritorial jurisdiction, or in an industrial district, the territory may be included in the district in the same manner as other territory under this chapter.

SECTION 2. Section 776.015(c), Health and Safety Code, is amended to read as follows:

(c) The county clerk shall issue a notice of the hearing. The notice must state:

(1) that creation of a district is proposed;

(2) that the district is to be created and is to operate under Article III, Section 48-e, of the Texas Constitution, as proposed by **S.J.R No. 27**, Acts of the 70th Legislature, Regular Session, 1987, and adopted by the voters at an election held November 3, 1987;

(3) the name of the proposed district;

(4) the district's boundaries and functions as stated in the petition;

(5) the place, date, and time of the hearing; and

(6) that each person who has an interest in the creation of the district may [~~is invited to~~] attend the hearing and [~~to~~] present the person's opinion for or against creation of the district.

SECTION 3. Section 776.018(a), Health and Safety Code, is amended to read as follows:

(a) If the area of the proposed district encompasses the territory of any municipality, including the area within the extraterritorial jurisdiction of the municipality, the commissioners court of the county in which the municipal territory or jurisdiction is located, in making a determination under Section 776.017, shall also determine whether those findings would be the same as to the remaining portion of the proposed district, excluding [~~including~~] any or all of the

territory of the municipalities in the event any one or more of the municipalities should fail to cast a majority vote in favor of [~~against~~] the district and the tax.

SECTION 4. Section 776.019(a), Health and Safety Code, is amended to read as follows:

(a) On the granting of a petition, the commissioners court shall order an election to confirm the district's creation and authorize the levy of a tax not to exceed:

(1) 10 cents on each $100 of the taxable value of property taxable by the district; or

(2) two cents on each $100 of the taxable value of property taxable by the district if any area in the district is also included in a rural fire prevention district.

SECTION 5. Section 776.020(c), Health and Safety Code, is amended to read as follows:

(c) If a majority of those voting at the election vote against creation of the district, the commissioners court may not order another election before the first anniversary of the date of the official canvass of the most recent election concerning creation of the district.

SECTION 6. Section 776.031(a), Health and Safety Code, is amended to read as follows:

(a) A district is a political subdivision of the state. To perform the functions of the district, a district may carry out this chapter and:

(1) acquire, hold, lease, manage, occupy, and sell real and personal property or an interest in property including real property, improvements, and fixtures necessary to house, repair, and maintain emergency services vehicles and related [~~fire protection~~] equipment;

(2) appoint and employ necessary officers, agents, and employees;

(3) sue and be sued;

(4) impose and collect taxes as prescribed by this chapter;

(5) accept and receive donations;

(6) lease, own, maintain, and operate [~~an~~] emergency services vehicles [~~system~~] and other necessary or proper emergency services [~~fire protection~~] equipment and machinery to [~~prevent and extinguish fires in the district and~~] provide emergency services, including emergency ambulance service; and

(7) enter into and perform necessary contracts, including a contract with another district, municipality, or another entity:

(A) to make fire-fighting facilities, fire extinguishment services, or [~~and~~] emergency rescue and ambulance services available to the district; or

(B) for reciprocal operation of services and facilities if the contracting parties find that reciprocal operation would be mutually beneficial and not detrimental to the parties to the contract [~~district; and~~

[~~(8) lease, own, maintain, operate, and provide emergency rescue equipment, emergency medical equipment, and other necessary and proper equipment to prevent loss of life or serious personal injury from fire or other hazards~~].

SECTION 7. Sections 776.035(b) and (c), Health and Safety Code, are amended to read as follows:

(b) The board may require inspections to be made in the district relating to the causes and prevention of fires, medical emergencies, or other disasters affecting human life or property.

(c) The board may promote educational programs it considers necessary [~~proper~~] to achieve [~~help carry out~~] the purposes of this chapter.

SECTION 8. This Act takes effect September 1, 1989.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The amendment was read and was adopted viva voce vote.

On motion of Senator Armbrister and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

**HOUSE BILL 26 ON THIRD READING**

Senator Armbrister moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 26** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Glasgow, Green, Parmer, Washington, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 0. (Same as previous roll call)

**HOUSE BILL 114 ON SECOND READING**

On motion of Senator Lyon and by unanimous consent, the regular order of business and Senate Rule 7.13 were suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 114**, Relating to the powers and duties of the Van Zandt County Waste Disposal District.

The bill was read second time and was passed to third reading viva voce vote.

**HOUSE BILL 114 ON THIRD READING**

Senator Lyon moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 114** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Glasgow, Green, Parmer, Washington, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 0. (Same as previous roll call)

**HOUSE BILL 25 ON SECOND READING**

On motion of Senator Haley and by unanimous consent, the regular order of business and Senate Rule 7.13 were suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 25**, Relating to the location of a new county jail facility.

The bill was read second time and was passed to third reading viva voce vote.

**HOUSE BILL 25 ON THIRD READING**

Senator Haley moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 25** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Glasgow, Green, Parmer, Washington, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 0. (Same as previous roll call)

## HOUSE BILL 52 ON SECOND READING

On motion of Senator Edwards and by unanimous consent, the regular order of business and Senate Rule 7.13 were suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 52**, Relating to submission of construction plans for certain roads by the Dallas County Improvement District, conveyance of district facilities, qualifications of district directors, and publication of meeting places of the district's board of directors.

The bill was read second time and was passed to third reading viva voce vote.

## HOUSE BILL 52 ON THIRD READING

Senator Edwards moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 52** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Glasgow, Green, Parmer, Washington, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 0. (Same as previous roll call)

**(President in Chair)**

## SENATE RULE 7.22(b) SUSPENDED

On motion of Senator Brooks, on behalf of Senator Green, and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendment to **S.B. 57**.

## SENATE BILL 57 WITH HOUSE AMENDMENT

Senator Brooks, on behalf of Senator Green, called **S.B. 57** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**Committee Amendment - Madla**

Amend **S.B. 57** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 18, Texas Mental Health Code (Article 5547-18, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 18. LIABILITY. All persons acting in good faith, reasonably, and without negligence in connection with examination, certification, apprehension, custody, transportation, detention, treatment, or discharge of any person or in the performance of any other act required or authorized by this code shall be free from all liability, civil or criminal, by reason of such action. Provided, however, that a physician [~~physicians~~] performing medical examinations and providing information to courts in any court proceeding held pursuant to the code or a physician providing information to peace officers to demonstrate the need for a person to be apprehended in an emergency detention under this code shall be

considered an officer of the court and shall not be held liable for such examination or testimony when acting without malice. And, provided that physicians and in-patient mental health facilities shall not be liable for any discharge of a voluntary patient where a written request for release was filed and not withdrawn and where the patient or other person filing the written request for release is notified that they are assuming all responsibility for the patient upon discharge.

SECTION 2. Subsection (a), Section 23, Texas Mental Health Code (Article 5547-23, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Request for Voluntary Admission of a person to an in-patient mental health facility as a voluntary patient shall be in writing and filed with the head of the mental health facility to which admission is sought and:

(1) shall be signed by the person, if the person is 16 years of age or older; or

(2) shall, if the person is under the age of 16 years be signed by the parent, or by the managing conservator if one has been appointed, or by the guardian if one has been appointed; and

(3) shall state that the person will voluntarily remain in the mental health facility until the person is discharged and that the person is consenting to the diagnosis, observation, care and treatment provided [~~submit himself to the custody of the in-patient mental health facility for diagnosis, observation, care, and treatment~~] until he is discharged or until the expiration of 96 hours after written request for his release is filed by the patient or other person responsible for the patient's admission with the head of the mental health facility. The patient or other person filing a request for release of the patient shall be notified that they assume all responsibility for the patient upon discharge.

SECTION 3. Subsection (a), Section 25, Texas Mental Health Code (Article 5547-25, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Every voluntary patient in an in-patient mental health facility has the following rights:

(1) the right to leave the mental health facility within 96 hours, after filing with the head of the mental health facility or his designee a written request for release, signed by the patient or other person responsible for the patient's admission [~~someone on his behalf and with his consent;~~] unless prior to the expiration of the 96-hour period:

(A) written withdrawal of the request for release is filed; or

(B) an application for court-ordered mental health services or emergency detention is filed and the patient is detained in accordance with the provisions of this code;

(2) the right of habeas corpus, which is not affected by admission to a mental health facility as a voluntary patient;

(3) the right to retain civil rights and legal capacity, which are not affected by admission to a mental health facility as a voluntary patient;

(4) the right to periodic review of his need for continued in-patient treatment;

(5) the right not to have an application for court-ordered mental health services filed while he is a voluntary patient unless in the opinion of the head of the facility he meets the criteria for court-ordered services and he is either absent without authorization or he refuses or is unable to consent to appropriate and necessary psychiatric treatment;

(6) the rights of patients set forth in Sections 80 and 81 of this code; and

(7) the right, within 24 hours of admission, to be informed orally in simple, nontechnical terms of these above-listed rights. In addition, the person shall

be informed in writing of these same above-listed rights, in his primary language if possible. The above-listed rights shall be communicated to a hearing and/or visually impaired person through any means reasonably calculated to communicate these rights. The same explanation shall be given to the parent, guardian, or managing conservator of a minor.

SECTION 4. Section 28, Texas Mental Health Code (Article 5547-28, Vernon's Texas Civil Statutes), is amended by adding Subsection (h) to read as follows:

(h) If extremely hazardous weather conditions exist or a disaster occurs, the presiding judge or magistrate may by written order made each day extend by an additional 24 hours the period during which the person may be detained. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster.

SECTION 5. Subsection (a), Section 32, Texas Mental Health Code (Article 5547-32, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) A sworn Application for Court-Ordered Mental Health Services may be filed by any adult person, or the county or district attorney, with the county clerk in the county in which the person resides or in which the person is found or in which the person is receiving mental health services by court order or after apprehension by a peace officer under Section 26 of this code. However, upon request of the person or his attorney, the court may in its discretion for good cause shown transfer the application to the county of the person's residence, if not initially filed there. If an application is filed without an accompanying Certificate of Medical Examination for Mental Illness, the application shall be filed by the county or district attorney.

SECTION 6. Subsection (a), Section 38, Texas Mental Health Code (Article 5547-38, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) A probable cause hearing shall be held within 72 hours of the time detention begins pursuant to the order for protective custody; provided, however, that if the 72-hour period ends on a Saturday or Sunday or a legal holiday, the probable cause hearing shall be held on the first succeeding business day. The probable cause hearing may be postponed each day for an additional period not to exceed 24 hours if an extreme emergency is declared by the presiding judge or magistrate based on extremely hazardous weather conditions or on the occurrence of a disaster which threatens ~~[threaten]~~ the safety of the patient or other essential parties to the hearing. The hearing shall be before a magistrate or, at the discretion of the presiding judge, before a master appointed by the presiding judge. The master shall receive reasonable compensation. At the hearing, the patient and his attorney shall have an opportunity to appear and present evidence to challenge the allegation that the patient presents a substantial risk of serious harm to himself or others. The magistrate or master may consider evidence including letters, affidavits, and other material that may not be admissible or sufficient in a subsequent commitment hearing. The state may prove its case on the physician's certificate filed in support of the initial detention.

SECTION 7. Section 42, Texas Mental Health Code (Article 5547-42, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 42. SETTING ON APPLICATION FOR COURT-ORDERED MENTAL HEALTH SERVICES. (a) When an Application for Court-Ordered Mental Health Services is filed, the judge or magistrate designated pursuant to Subsection (b) of Section 36 of this code shall set a date for a hearing to be held within 14 days of the filing of the application. If the proposed patient or his attorney objects, the hearing shall not be held within the first three days following the filing of the application. Upon proper motion by either party and for good cause shown or upon agreement of the parties, the court may grant one or more continuances

of the hearing, provided that the hearing shall be held no later than 30 days from the filing of the original application.

(b) If extremely hazardous weather conditions exist or if a disaster occurs that threatens the safety of the patient or other essential parties to the hearing, the judge or magistrate may by written order made each day postpone the hearing for 24 hours. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster.

SECTION 8. Sections 1.01 and 1.03, Texas Alcohol and Drug Abuse Services Act (Article 5561c-2, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 1.01. PURPOSE. The purpose of this Act is to prevent broken homes and the loss of lives by creating the Texas Commission on Alcohol and Drug Abuse. The commission shall cooperate with all interested and affected federal, state, and local agencies and develop and coordinate prevention, intervention, treatment, and rehabilitation programs. The commission shall expand drug, inhalant, and alcohol abuse services for children when funds are available because of the long-term benefits of the services to the state and its citizens. Chemical dependency is [~~Alcohol and drug abuse are~~] recognized as a preventable and treatable illness [~~illnesses~~] and public health problem [~~problems~~] affecting the general welfare and the economy of the state. The need for proper and sufficient facilities, programs, and procedures for prevention, intervention, treatment, and rehabilitation is recognized. It is the policy of this state that a chemically dependent person [~~an alcohol or drug abuser~~] shall be offered a continuum of services that will enable the person to lead a normal life as a productive member of society.

Sec. 1.03. DEFINITIONS. In this Act:

(1) "Applicant" means an adult who files an application for emergency detention, protective custody, or commitment of a chemically dependent person.

(2) "Certificate" means a sworn certificate of medical examination for chemical dependency executed under this Act.

(3) "Chemical dependency" means the abuse of, psychological or physical dependence on, or addiction to alcohol or a controlled substance.

(4) [~~"Alcohol abuse" means the excessive use of alcohol in a manner that interferes with one or more of the following to a less than chronic extent: physical or psychological functioning, social adaptation, educational performance, or occupational functioning.~~

[~~(2) "Alcoholism" means the loss of self-control with respect to the use of alcohol, or the pathological use of alcohol that chronically impairs social or occupational functioning, or physiological dependence on alcohol as evidenced by tolerance or withdrawal symptoms.~~

[~~(3) "Alcoholic" means the individual suffering from alcoholism.~~

[~~(4) "Approved treatment program" means a substance abuse treatment facility approved by the commission to carry out a specific provision of this Act.~~

[~~(5)~~] "Commission" means the Texas Commission on Alcohol and Drug Abuse.

(5) "Controlled substance" means a toxic inhalant or any substance designated as a controlled substance by the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes).

(6) "Intervention" means constructive methods or programs designed to interrupt the onset or progression of chemical dependency in the early stages.

(7) "Legal holiday" means a state holiday specified in Article 4591, Revised Statutes, or an officially declared county holiday that applies to a court in which proceedings under this Act are held.

[~~(6) "Drug abuse" means misuse or abuse of any controlled substance for other than appropriate and duly prescribed medicinal purposes.~~

[~~(7) "Drug dependent person" means a person who is using a controlled substance and who is in a state of psychic or physical dependence or both arising from administration of a controlled substance. Drug dependence is characterized by behavioral and other responses that include a strong compulsion to take a controlled substance in order to experience its psychic effects or to avoid the discomfort of its absence.~~]

(8) "Prevention" means constructive methods or programs designed to reduce an individual's risk of abusing alcohol or a controlled substance or becoming chemically dependent [~~addicted to alcohol or drugs~~].

(9) "Proposed patient" means a minor or adult named in an application for emergency detention, protective custody, or commitment under this Act. [~~"Intervention" means constructive methods or programs designed to interrupt the onset or progression of substance abuse or dependence in the early stages.~~]

(10) "Rehabilitation" means a planned and organized program designed to reestablish the social and vocational life of a [~~substance-free~~] person after treatment.

(11) "Toxic inhalant" means a gaseous substance inhaled by a person to produce a desired physical or psychological effect that may cause personal injury or illness to the inhaler.

(12) "Treatment" means a planned, structured, and organized program designed to initiate and promote [~~maintain~~] a person's chemical-free [~~substance-free~~] status or to maintain the person free of illegal drugs.

(13) "Treatment facility" means a public or private hospital, detoxification facility, primary care facility, intensive care facility, long-term care facility, outpatient care facility, community mental health center, health maintenance organization, recovery center, halfway house, ambulatory care facility, any other facility that is required to be licensed and approved by the commission, or a facility licensed or operated by the Texas Department of Mental Health and Mental Retardation. The term does not include an educational program for intoxicated drivers or the individual office of a private, licensed health care practitioner who personally renders private individual or group services within the scope of the practitioner's license and in the practitioner's office.

SECTION 9. Subsection (b), Section 1.04, Texas Alcohol and Drug Abuse Services Act (Article 5561c-2, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) A person is not eligible for appointment as a member if the person or the person's spouse:

(1) is licensed by an occupational regulatory agency in the field of chemical dependency [~~alcoholism or drug abuse~~];

(2) is employed by or participates in the management of a business entity or other organization regulated by the commission or receiving funds from the commission;

(3) owns, controls, or has, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving funds from the commission; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the commission.

SECTION 10. Section 1.08, Texas Alcohol and Drug Abuse Services Act (Article 5561c-2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.08. RESTRICTIONS ON COMMISSION MEMBERSHIP AND EMPLOYMENT. (a) An officer, employee, or paid consultant of an association that has as its primary interest the provision of services or other matters relating to

chemical dependency [~~alcohol or drug abuse~~] may not be a member or employee of the commission, nor may a person who cohabits with or is the spouse of an officer, managerial employee, or paid consultant of such an association be a member of the commission or an employee of the commission grade 17 or over, including exempt employees, according to the position classification schedule under the General Appropriations Act.

(b) A person who is required to register as a lobbyist under Chapter 305, Government Code, by virtue of his activities for compensation in or on behalf of a provider of chemical dependency [~~alcohol or drug abuse~~] services, may not serve as a member of the commission or act as the general counsel to the commission.

SECTION 11. Subsection (a), Section 1.14, Texas Alcohol and Drug Abuse Services Act (Article 5561c-2, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The commission shall:

(1) provide for research and study of the problems of chemical dependency [~~substance abuse~~] in this state and seek to focus public attention on these problems through public information and education programs;

(2) plan, develop, coordinate, evaluate, and implement programs for the prevention, intervention, treatment, and rehabilitation of chemical dependency [~~substance abuse and alcoholism and drug dependence~~] in cooperation with federal and state agencies, local governments, organizations, and individuals and provide technical assistance, funds, and consultation services for statewide and community-based services;

(3) establish cooperative relationships with and enlist the assistance of other state, federal, and local agencies, hospitals, clinics, public health, welfare, and criminal justice system authorities, and educational and medical agencies and organizations, and other related public and private groups and individuals;

(4) sponsor, promote, and conduct educational programs on the prevention and treatment of chemical dependency [~~substance abuse, alcoholism, and drug dependence~~] and maintain a public information clearinghouse to purchase and provide books, literature, audiovisual, and other educational material for the programs;

(5) sponsor, promote, and conduct training programs for persons delivering prevention, intervention, treatment, and rehabilitation services and for persons in the criminal justice system or otherwise in a position to identify chemically [~~substance abusers, alcoholics, drug~~] dependent persons, and their families in need of services;

(6) require programs rendering services to chemically [~~substance abusers and alcoholics and drug~~] dependent persons to safeguard their legal rights of citizenship and maintain the confidentiality of client records as required by state and federal law;

(7) maximize the use of available funds for direct services rather than administrative services;

(8) consistently monitor the expenditure of funds and the provision of services of all grant and contract recipients to assure that the services are effective and properly staffed and meet the standards adopted under this Act, and shall make the monitoring reports a matter of public record;

(9) license facilities that treat chemically [~~alcohol or alcohol and drug~~] dependent persons;

(10) use funds appropriated to the commission to carry out the mandate of this Act, and maximize the overall state allotment of federal funds; and

(11) establish minimum criteria that peer assistance programs must meet to be governed by and entitled to the benefits of a law that authorizes licensing

and disciplinary authorities to establish or approve peer assistance programs for impaired professionals.

SECTION 12. Title 1, Texas Alcohol and Drug Abuse Services Act (Article 5561c-2, Vernon's Texas Civil Statutes), is amended by adding Sections 1.16 and 1.17 to read as follows:

Sec. 1.16. EMERGENCY TREATMENT RESOURCES. The executive director, within funds appropriated for that purpose, may develop emergency treatment resources for persons who appear to be:

(1) chemically dependent;

(2) under the influence of alcohol or a controlled substance and in need of medical attention; or

(3) undergoing withdrawal or experiencing medical complications related to a chemical dependency.

Sec. 1.17. REFERRAL SERVICES FOR PERSONS FROM CRIMINAL JUSTICE SYSTEM. (a) The executive director, within funds appropriated for that purpose, may establish programs for referral, treatment, or rehabilitation of persons from the criminal justice system within the terms of bail, probation, conditional discharge, parole, or other conditional release.

(b) A referral may not be inconsistent with medical or clinical judgment or conflict with this Act or applicable federal regulations.

SECTION 13. Title 2, Texas Alcohol and Drug Abuse Services Act (Article 5561c-2, Vernon's Texas Civil Statutes), is amended to read as follows:

**TITLE 2. INVOLUNTARY TREATMENT OF CHEMICALLY DEPENDENT PERSONS [~~ALCOHOLICS~~]**

**SUBTITLE A. EMERGENCY DETENTION AND PRECOMMITMENT PROCEEDINGS**

Sec. 2.01. APPREHENSION BY PEACE OFFICER WITHOUT WARRANT. (a) A peace officer may without first obtaining a warrant take a person into custody and immediately transport the person to an inpatient treatment facility as prescribed by Subsection (d) of this section if the officer:

(1) has reason to believe and does believe that:

(A) the person is chemically dependent; and

(B) because of that chemical dependency there is a substantial risk of harm to the person or to others unless the person is immediately restrained; and

(2) believes that there is not sufficient time to obtain a warrant before taking the person into custody.

(b) The belief that a person represents a substantial risk of serious harm may be based on:

(1) the person's behavior; or

(2) evidence of severe emotional distress and deterioration in the person's mental or physical condition to the extent that the person cannot remain at liberty.

(c) A peace officer may base his belief that the person meets the criteria for apprehension on:

(1) the representation of a credible person;

(2) the conduct of the apprehended person; or

(3) the circumstances under which the apprehended person is found.

(d) A peace officer shall immediately transport a person apprehended under this section to the nearest appropriate inpatient treatment facility for a preliminary examination. The officer shall transport the person to a facility considered suitable by the county's health authority if an appropriate inpatient treatment facility is not available. A person may not be detained in a jail or similar detention facility except

in an extreme emergency. A person detained in a jail or a nonmedical facility shall be kept separate from any person who is charged with or convicted of a crime.

(e) A peace officer shall immediately file an application for detention after transporting a person to a facility under this section. The application for detention must contain the following information:

(1) that the officer has reason to believe and does believe that the person evidences chemical dependency;

(2) that the officer has reason to believe and does believe that the person evidences a substantial risk of serious harm to himself or others;

(3) a specific description of the risk of harm;

(4) that the officer has reason to believe and does believe that the risk of harm is imminent unless the person is immediately restrained;

(5) that the officer's beliefs are based on specific recent behavior, overt acts, attempts, or threats that were observed by or reliably reported to the officer;

(6) a detailed description of the specific behavior, acts, attempts, or threats; and

(7) the name and relationship to the apprehended person of any person who reported or observed the behavior, acts, attempts, or threats.

(f) The person shall be released after a preliminary examination is conducted under Section 2.02 of this Act unless the examining physician determines that emergency detention is necessary and provides the statement prescribed by Section 2.02 of this Act. If a person is not admitted to a facility after the preliminary examination in accordance with Section 2.02 of this Act and is not arrested or does not object, arrangements shall be made to immediately return the person to:

(1) the location in which the person was apprehended;

(2) the person's place of residence in this state; or

(3) another suitable location.

(g) The county in which the person was apprehended shall pay the costs of the person's return.

(h) A treatment facility may provide to a person medical assistance whether the facility admits the person or refers the person to another facility.

Sec. 2.02. MAGISTRATE ORDER FOR EMERGENCY APPREHENSION AND DETENTION. (a) Any adult person may execute an application for emergency detention for another adult or a minor. The application shall be in writing and shall state:

(1) that the applicant has reason to believe and does believe that the person is a chemically dependent person [~~suffers from alcoholism~~];

(2) that the applicant has reason to believe and does believe that the person evidences a substantial risk of serious harm to himself or others, which risk of harm shall be specified and described;

(3) that the applicant has reason to believe and does believe that the risk of harm is imminent unless the person is immediately restrained;

(4) that the applicant's beliefs are based on specific recent behavior, overt acts, attempts, or threats, which shall be described in specific detail; and

(5) the relationship, if any, of the applicant to the person sought to be detained.

(b) The application may be accompanied by any relevant information.

(c) The application shall be presented personally to any judge or magistrate who shall examine it and may interview the applicant.

(d) The judge or magistrate shall deny the application unless he or she finds there is reasonable cause to believe that:

(1) the person is a chemically dependent person [~~suffers from alcoholism~~];

(2) the person evidences a substantial risk of serious harm to himself or others;

(3) the risk of harm is imminent unless the person is immediately restrained; and

(4) necessary restraint cannot be accomplished without emergency detention.

(e) If the judge or magistrate finds that the person meets all four criteria for emergency detention specified in Subsection (d) of this section, the judge or magistrate [~~he~~] shall issue a warrant for the immediate apprehension and transportation of the person to a [~~an approved~~] treatment facility [~~program~~], if one is readily available, or to another appropriate facility for a preliminary examination by a physician. The preliminary examination shall be conducted as soon as possible within 24 hours of the time of apprehension under this subsection or Section 2.01 of this Act. Copies of the application for warrant and the warrant itself shall be served as soon as possible on the person and [~~immediately~~] transmitted to the facility [~~program~~].

(f) On completion of the preliminary examination, the person shall be released unless the examining physician or the physician's designee provides a written opinion that the person meets the criteria stated in Subsection (d) of this section. A person not admitted following the preliminary examination shall be entitled to reasonably prompt return to the location of his apprehension or other suitable place, unless the person is arrested or objects to the return.

(g) The person so apprehended may be detained in custody for a period which shall not exceed 24 hours from the time the person is presented to the facility, unless an application for court-ordered treatment is filed and a written order for further detention is obtained under Section 3.04 of this Act. However, if the 24-hour period ends on a Saturday or Sunday, or a legal holiday, the period of detention shall end at 4 p.m. [~~12 noon~~] on the first succeeding business day.

(h) If extremely hazardous weather conditions exist or a disaster occurs, the presiding judge or magistrate may by written order made each day extend by an additional 24 hours the period during which the person may be detained. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster.

Sec. 2.03 [~~2.02~~]. RELEASE FROM EMERGENCY DETENTION. If during the emergency detention period it is determined by the administrator of the facility [~~program~~] or the administrator's designee that the criteria set out in [~~Subsection (d) of~~] Section 2.02(d) [~~2.01~~] of this Act no longer apply, the person shall be released. Arrangements shall be made for the person's return to the location of apprehension or other suitable place, unless the person is arrested or objects to the return.

Sec. 2.04 [~~2.03~~]. RIGHTS OF PERSONS APPREHENDED FOR EMERGENCY DETENTION. (a) Each person apprehended or detained under this subtitle has the following rights:

(1) the right to be advised of the location of detention, the reasons for detention, and the fact that detention could result in a longer period of involuntary commitment;

(2) the right to contact an attorney of his or her own choosing with a reasonable opportunity to contact that attorney;

(3) the right to be transported back to the location of apprehension, or other suitable place, if not admitted for emergency detention, unless he is arrested or objects to the return;

(4) the right to be released if the administrator of the program determines that any of the four criteria for emergency detention set out in [~~Subsection (d) of~~] Section 2.02(d) [~~2.01~~] of this Act no longer apply; and

(5) the right to be advised that communications to a chemical dependency [~~an alcoholism~~] treatment professional may be used in proceedings for further detention.

(b) Each person apprehended or detained under this title shall be advised within 24 hours of admission, orally and in writing, in simple, nontechnical terms, of the rights of patients provided by this section.

Sec. 2.05. INFORMATION TO BE PROVIDED ON ADMISSION. (a) If a person is accepted for treatment under Section 2.01 or 2.02 of this Act, the personnel of the treatment facility shall immediately advise the person in simple, nontechnical terms that:

(1) the person may be detained for treatment for not more than 24 hours after the hour of the initial detention unless an order for further detention is obtained;

(2) if the administrator finds that the statutory criteria for emergency detention no longer apply, the administrator shall release the person;

(3) not later than the 24th hour after the hour of the initial detention, the facility administrator may file in a county or district court a petition to have the person committed for court-ordered treatment under Subtitle B of this title;

(4) if the administrator files a petition for court-ordered treatment, the person is entitled to a judicial probable cause hearing not later than the 72nd hour after the hour on which detention begins under an order of protective custody to determine whether the person should remain detained in the facility;

(5) when the application for court-ordered services is filed, the person has the right to have counsel appointed if the person does not have an attorney;

(6) the person has the right to communicate with counsel at any reasonable time and to have assistance in contacting the counsel;

(7) anything the person says to the personnel of the treatment facility may be used in making a determination relating to detention, may result in the filing of a petition for court-ordered treatment, and may be used at a court hearing;

(8) the person is entitled to present evidence and to cross-examine witnesses who testify on behalf of the petitioner at a hearing;

(9) the person may refuse medication unless there is an imminent likelihood of serious physical injury to the person or others if the medication is refused;

(10) beginning on the 24th hour before a hearing for court-ordered treatment, the person may refuse to take medication unless the medication is necessary to save the person's life; and

(11) the person is entitled to request that a hearing be held in the county of which the person is a resident, if within the state.

(b) The personnel of the treatment facility shall provide the information required by Subsection (a) of this section to the person orally and in writing.

**SUBTITLE B. COURT-ORDERED TREATMENT**

Sec. 3.01. COURT IN WHICH PROCEEDINGS TO BE HELD. (a) A proceeding pursuant to this title shall be held in a constitutional county court, a statutory county court having probate jurisdiction, or a statutory probate court in the county in which the proposed patient resides, is found, or is receiving court-ordered treatment or treatment under Section 2.01 of this Act when the application is filed unless otherwise specifically designated.

(b) If the hearing is to be held in a constitutional county court and the judge of the court is not a licensed attorney, the proposed patient may request that the proceeding be transferred to a statutory court having probate jurisdiction or to a district court. If a request for transfer is filed under this subsection, the county judge shall transfer the proceeding and the receiving court shall hear the proceeding as if the proceeding had been originally filed with that court.

(c) The commitment of a juvenile under this subtitle shall be heard in a district court or statutory court having juvenile jurisdiction or probate jurisdiction. The commitment of a juvenile under Subtitle C of this title shall be heard only in a court having juvenile jurisdiction [~~the statutory or constitutional court of the county exercising the jurisdiction of a probate court in alcoholism matters~~].

Sec. 3.02. APPLICATION FOR COURT-ORDERED TREATMENT. (a) A sworn application for court-ordered treatment may be filed by any adult person, or by the county or district attorney, with the county clerk in the county in which the proposed patient resides, [~~or in which the proposed patient~~] is found, or [~~in which the patient~~] is receiving treatment services by court order or under Section 2.01 of this Act. However, on request of the proposed patient or the proposed patient's [~~his~~] attorney, the court may in its discretion for good cause shown transfer the application to the county of the proposed patient's residence, if not initially filed there. Only the county or district attorney may file an application without an accompanying certificate of medical examination for chemical dependency.

(b) The application must be in writing and must state the following based on the information and belief of the applicant:

(1) the name and address of the proposed patient, including county of residence, if known [~~in this state~~];

(2) that the proposed patient is a chemically dependent person who [~~suffers from alcoholism and as a result, the person~~]:

(A) is likely to cause serious harm to himself or others; or

(B) will continue to suffer abnormal mental, emotional, or physical distress, will continue to deteriorate in ability to function independently if not treated, and is unable to make a rational and informed choice as to whether or not to submit to treatment; and

(3) that the proposed patient is not charged with a criminal offense that involves an act, attempt, or threat of serious bodily injury to another person (not including a juvenile alleged to be a child engaged in delinquent conduct or conduct indicating a need for supervision as defined in Section 51.03, Family Code).

(c) The application shall be styled using the proposed patient's initials and not the full name.

(d) On the filing of an application, the court shall set a date for the hearing on the merits to be held within 14 days after the date on which the application is filed. The hearing may not be held within the first three days after the application is filed if the proposed patient or his attorney objects. The court may grant one or more continuances of the hearing on proper motion by either party and for good cause shown or by agreement of the parties. The hearing must be held not later than the 30th day after the date on which the original application is filed. Immediately after the court sets the date for the hearing, the clerk shall give written notice of the hearing and a copy of the application to the proposed patient and the proposed patient's attorney in the manner the court directs. The court shall appoint an attorney to represent the proposed patient unless the proposed patient retains an attorney of the proposed patient's own choosing. If the proposed patient is a minor, the court shall appoint an attorney ad litem, regardless of the ability of the proposed patient or the proposed patient's family to afford an attorney. The court shall allow a court-appointed attorney a reasonable fee for services to be taxed as costs of the court.

Sec. 3.03. CERTIFICATE OF MEDICAL EXAMINATION FOR CHEMICAL DEPENDENCY. (a) Before a hearing on court-ordered treatment may be held, there must be on file with the court two certificates of medical examination for chemical dependency completed by physicians who have examined the proposed patient within 30 days preceding the date on which the final hearing is held.

(b) The court may appoint the necessary physicians to examine the proposed patient and to file the certificates with the court if the certificates of medical examination for chemical dependency are not filed with the application. The court may order the proposed patient to submit to the examinations and may issue a warrant directing a peace officer to take the proposed patient into custody for the examinations.

(c) The examining physician shall date and sign the certificate and shall state in the certificate:

(1) the name and address of the examining physician;

(2) the name and address of the proposed patient;

(3) the date and place of the examination;

(4) the period, if any, during which the proposed patient has been under the examining physician's care;

(5) an accurate description of the treatment, if any, given by or administered under the direction of the examining physician; and

(6) the examining physician's opinion and the detailed basis for that opinion concerning whether the proposed patient is a chemically dependent person and:

(A) is likely to cause serious harm to himself;

(B) is likely to cause serious harm to others; or

(C) will continue to suffer abnormal mental, emotional, or physical distress and to deteriorate in ability to function independently if not treated and is unable to make a rational and informed choice as to whether or not to submit to treatment.

Sec. 3.04. ORDER OF PROTECTIVE CUSTODY. (a) A motion for an order of protective custody may be filed only in the court in which an application for court-ordered treatment is pending. The motion may be filed by the county or district attorney or on the court's own motion. (b) The motion must state that the judge or county or district attorney has reason to believe and does believe that the proposed patient meets the criteria for protective custody prescribed by this section. The judge or county or district attorney may base his belief on:

(1) the representations of a credible person;

(2) the proposed patient's conduct; or

(3) the circumstances under which the proposed patient is found.

(c) The motion must be accompanied by a certificate of medical examination for chemical dependency prepared by a physician who has examined the proposed patient within five days of the filing of the motion.

(d) The judge of the court in which the application is pending may designate a magistrate to issue orders of protective custody in the judge's absence.

(e) The judge or designated magistrate may issue an order of protective custody if the judge or magistrate determines:

(1) that a physician has stated his opinion and the detailed basis for his opinion that the proposed patient is a chemically dependent person; and

(2) the proposed patient presents a substantial risk of serious harm to himself or others if not immediately restrained before the hearing.

(f) The determination that the proposed patient presents a substantial risk of serious harm may be demonstrated by the proposed patient's behavior or by evidence that the proposed patient cannot remain at liberty. The judge or magistrate may base the determination that the proposed patient meets the criteria prescribed by this subsection on the application and certificate. The judge or magistrate must determine that the conclusions of the applicant and certifying physician are adequately supported by the information provided if only the application and certificate are considered. The judge or magistrate may take additional evidence if

the judge or magistrate concludes that a fair determination of the matter cannot be made after considering only the application and certificate.

(g) The judge or magistrate may issue an order of protective custody for a proposed patient who is charged with a criminal offense if the proposed patient meets the requirements of this section and the head of the facility designated to detain the proposed patient agrees to the detention.

(h) The order of protective custody shall direct a peace officer or other designated person to take the proposed patient into protective custody and immediately transport the proposed patient to a treatment facility or other suitable place for detention. The proposed patient shall be detained until a probable cause hearing is held under Section 3.05 of this Act.

Sec. 3.05. PROBABLE CAUSE HEARING. (a) The court shall set a probable cause hearing to determine if probable cause exists to believe that the proposed patient presents a substantial risk of serious harm to himself or others if not restrained until the hearing on the application. The hearing must be held within 72 hours of the signing of an order of protective custody unless the right to a hearing is waived by the proposed patient. If that 72-hour period ends on a Saturday, Sunday, or legal holiday, the probable cause hearing shall be held on the first succeeding business day. The judge or magistrate may postpone the hearing each day for an additional 24 hours if the judge or magistrate declares that an extreme emergency exists because of extremely hazardous weather conditions or on the occurrence of a disaster that threatens the safety of the proposed patient or another essential party to the hearing.

(b) The probable cause hearing shall be held before a magistrate or, at the discretion of the presiding judge, before a master appointed by the presiding judge. A master is entitled to reasonable compensation. At the hearing, the proposed patient and the proposed patient's attorney are entitled to an opportunity to appear and present evidence on any allegation or statement in the certificate of medical examination for chemical dependency. The magistrate or master may consider any evidence. The state may prove its case on the certificate.

(c) If after the hearing the magistrate or master determines that probable cause does not exist to believe that the proposed patient presents a substantial risk of serious harm to himself or others, the magistrate or master shall order the proposed patient's release.

(d) If the magistrate or master determines that probable cause does exist to believe that the proposed patient presents a substantial risk of serious harm to himself or others such that the proposed patient cannot be at liberty pending the hearing on court-ordered treatment, the magistrate shall order the proposed patient detained until the hearing on the court-ordered treatment or until the administrator of the facility determines that the proposed patient no longer meets the criteria for detention under this section, whichever occurs first.

(e) If detention is ordered under Subsection (d) of this section, the magistrate or master shall arrange for the proposed patient to be returned to the treatment facility or other suitable place with a copy of the certificate of medical examination for chemical dependency, any affidavits or other material submitted as evidence in the hearing, and a notification of probable cause hearing prepared as prescribed by Subsection (f) of this section. A copy of the notification of probable cause hearing and the supporting evidence must also be filed with the court that entered the original order of protective custody.

(f) The notification of probable cause hearing shall read as follows:

(Style of Case)

NOTIFICATION OF PROBABLE CAUSE HEARING

On this the _____ day of _____, 19_____, the undersigned hearing officer heard evidence concerning the need for protective

custody of _____ (hereinafter referred to as proposed patient). The proposed patient was given the opportunity to challenge the allegations that (s)he presents a substantial risk of serious harm to self or others.

The proposed patient and his attorney _____
(attorney)

have been given written notice that the proposed patient was placed under an order of protective custody and the reasons for such order on _____.
(date of notice)

I have examined the certificate of medical examination for chemical dependency and _____.
(other evidence considered)

Based on this evidence, I find that there is probable cause to believe that the proposed patient presents a substantial risk of serious harm to himself (yes ____ or no ____) or others (yes ____ or no ____) such that (s)he cannot be at liberty pending final hearing because _____
(reasons for finding; type of risk found)

Sec. 3.06. HEARING ON APPLICATION FOR COURT-ORDERED TREATMENT. (a) A hearing on court-ordered treatment must be before a jury unless the proposed patient and the proposed patient's attorney waive the right to a jury. The waiver may be filed at any time after the proposed patient is served with the application and receives notice of the hearing. The waiver of the right to a jury must be in writing, under oath, and signed and sworn to by the proposed patient and by the attorney appointed to represent the proposed patient or the attorney retained by the proposed patient.

(b) The proposed patient is entitled to have a hearing and to be present at the hearing, but the proposed patient or the proposed patient's attorney may waive either right.

(c) A hearing by the court may be held in any suitable place in the county. The hearing must be held in the county courthouse if the proposed patient or the proposed patient's attorney demands that location.

(d) The Texas Rules of Civil Procedure and Texas Rules of Civil Evidence apply to a hearing held under this title unless the rules are inconsistent with this title. The hearing is on the record, and the state must prove each issue by clear and convincing evidence.

(e) In addition to the rights prescribed by this Act, the proposed patient is entitled to:

(1) present evidence on the proposed patient's own behalf;

(2) cross-examine witnesses who testify on behalf of the applicant;

(3) view and copy all petitions and reports in the court file of the cause; and

(4) elect to have the hearing open or closed to the public.

(f) If the proposed patient admits the allegations of the application or if, at the hearing on the merits, the court or jury finds that the material allegations of the application have been proven by clear and convincing evidence, the court shall commit the proposed patient to a treatment facility approved by the commission to accept court commitments for a period not to exceed 90 days.

(g) If the court or jury fails to find by clear and convincing evidence that the proposed patient is a chemically dependent person and meets the criteria for court-ordered treatment, the court shall enter an order denying the application and discharging the proposed patient.

(h) The judge may, on request by the proposed patient, enter an order requiring the proposed patient to participate in a licensed outpatient treatment facility or services provided by a private licensed physician, psychologist, social worker, or professional counselor if the judge makes a finding that it is in the proposed patient's best interest to do so considering the proposed patient's impairment.

Sec. 3.07. MOTION FOR MODIFICATION OF ORDER FOR OUTPATIENT TREATMENT. (a) The court that entered an order requiring a patient to participate in outpatient care or services may set a hearing to determine if the order should be modified to specifically require inpatient treatment. The court may set the hearing on its own motion, at the request of the person responsible for the care or treatment, or at the request of any other interested person.

(b) The court shall appoint an attorney to represent the patient if a hearing is held. The patient shall be given notice of the matters to be considered at the hearing. The notice must comply with the requirements of Section 3.02 of this Act for notice before a hearing on court-ordered treatment.

(c) The hearing shall be held before the court, without a jury, and as prescribed by Section 3.06 of this Act. The patient shall be represented by an attorney and receive proper notice.

(d) This section applies only to a change in the general program of treatment that is a substantial deviation from the original program incorporated in the court's order.

Sec. 3.08. ORDER FOR TEMPORARY DETENTION. (a) The person responsible for a patient's court-ordered outpatient care or treatment or the head of the outpatient treatment facility in which the patient receives care or treatment shall file a sworn application for the patient's temporary detention before the modification hearing.

(b) The application must state the applicant's opinion and the detailed basis for the applicant's opinion that:

(1) the patient meets the criteria in Section 3.09 of this Act; and

(2) detention in an approved inpatient treatment facility is necessary to evaluate the appropriate setting for continued court-ordered services.

(c) The court shall base its decision on the application. The court may issue an order for temporary detention if the court finds that there is probable cause to believe that the opinions stated in the application are valid.

(d) The court shall appoint an attorney to represent the patient when the order for temporary detention is signed if the patient does not have an attorney.

(e) Not later than the 72nd hour after the hour on which the patient is detained, the court that issued the order of temporary detention shall provide to the patient and the patient's attorney a written notice that contains:

(1) a statement that the patient has been placed under an order for temporary detention;

(2) the reasons the order was issued; and

(3) the time and place of the modification hearing.

(f) The order for temporary detention shall direct a peace officer or other designated person to take the patient into custody and immediately transport the patient to the nearest appropriate approved inpatient treatment facility. The patient shall be transported to a suitable facility if an appropriate approved inpatient treatment facility is not available.

(g) A patient may be detained under an order for temporary detention for not more than 72 hours. The exceptions applicable to the 72-hour limitation for holding a probable cause hearing for an order of protective custody under Subsection (a) of Section 3.05 of this Act apply to detention under this section.

(h) The head of a facility shall immediately release a patient held under an order for temporary detention if the facility head does not receive notice that a

modification hearing was held within the time limits prescribed by Subsection (g) of this section in which the patient's continued detention was authorized.

(i) A patient released from an inpatient treatment facility under Subsection (h) of this section continues to be subject to the terms of the order committing the person to an approved outpatient treatment facility if the order has not expired.

Sec. 3.09. ORDER OF MODIFICATION OF ORDER FOR OUTPATIENT SERVICES. (a) The court may modify an order for outpatient services at the modification hearing if the court determines that the patient continues to meet the applicable criteria for court-ordered treatment prescribed by this Act and that:

(1) the patient has not complied with the court's order; or

(2) the patient's condition has deteriorated to the extent that outpatient care or services are no longer appropriate.

(b) The court's decision to modify an order must be supported by at least one certificate of medical examination for chemical dependency signed by a physician who examined the patient not later than the seventh day before the date on which the hearing is held.

(c) A court that finds that the criteria prescribed by Subsection (a) of this section have been met may:

(1) refuse to modify the order and may direct the patient to continue to participate in outpatient care or treatment in accordance with the original order;

(2) modify the order to incorporate a revised treatment program and to provide for continued outpatient care or treatment under the modified order, if a revised general program of treatment was submitted to and accepted by the court; or

(3) modify the order to provide for commitment to an approved treatment facility for inpatient care.

(d) A modified court order may not extend beyond the period prescribed for the original order.

Sec. 3.10. MODIFICATION OF ORDER FOR INPATIENT TREATMENT. (a) The head of a facility to which a patient is committed for inpatient treatment may request that the court that entered the commitment order consider modifying the order to require the patient to participate in outpatient care or services.

(b) The facility head's request must explain in detail why the facility head is making the request. The request must be accompanied by a certificate of medical examination for chemical dependency signed by a physician who examined the patient during the preceding seven days.

(c) The patient shall be given notice of the request.

(d) The court must hold a hearing on the request if the patient or any other interested person demands a hearing. The court shall appoint an attorney to represent the patient at the hearing. The hearing shall be held before the court without a jury and as prescribed by Section 3.06 of this Act. The patient shall be represented by an attorney and receive proper notice.

(e) The court may consider and make its decision based on the request and the supporting certificate if a hearing is not requested.

(f) The court shall identify a person to be responsible for the outpatient care or services if the court determines that the order should be modified.

(g) The person responsible for the care or services must submit to the court a general program of the treatment to be provided. The program must be submitted within two weeks after the court enters the modified order. The program must be incorporated into the court order.

(h) A modified order may not extend beyond the term of the original order.

Sec. 3.11. OUTPATIENT SERVICES IN CERTAIN COUNTIES. (a) This section applies to a chemically dependent person who is a resident of a county with a population of more than 2.4 million, according to the most recent federal decennial census, and whose inpatient commitment is modified to an outpatient commitment or who is furloughed from an inpatient facility.

(b) The commission shall arrange and furnish alternative settings for outpatient care, treatment, and supervision in the person's county of residence. The services must be provided as close as possible to the patient's residence.

(c) A patient receiving services under this section shall report at least weekly to the person responsible for the patient's outpatient care and services.

(d) The person responsible for the patient's outpatient care or treatment shall notify the committing court of the patient's treatment plan and condition at least monthly until the end of the commitment period.

(e) This section expires August 31, 1991.

**SUBTITLE C. CRIMINAL JUSTICE COMMITMENT**

Sec. 4.01. COMMITMENT BY COURTS IN CRIMINAL PROCEEDINGS; ALTERNATIVE SENTENCING. (a) The judge of a court with jurisdiction of misdemeanor cases may remand the defendant to a treatment facility approved by the commission to accept court commitments for care and treatment not to exceed 90 days in lieu of incarceration or fine, if:

(1) the court or a jury has found the defendant guilty of an offense classified as a Class A or B misdemeanor;

(2) the court finds that the violation resulted from or was related to the defendant's chemical dependency; and

(3) a treatment facility approved by the commission to accept court commitments is available to treat the person and the facility agrees in writing to admit the defendant under this section.

(b) A defendant is not eligible for sentencing under this section if, in the opinion of the court, the defendant is mentally ill. An order of sentencing by the court is treated as a final conviction and an appeal from the order may be taken in the same manner as provided for appeals from any other judgment of that court.

(c) If a juvenile court finds that a child has engaged in delinquent conduct or conduct indicating a need for supervision resulting from or related to the child's chemical dependency, the court may remand the child to a treatment facility for care and treatment for not more than 90 days after the date on which the child is remanded if:

(1) a treatment facility approved by the commission to accept court commitments is available to treat the child; and

(2) the facility agrees in writing to receive the child under this section.

**SUBTITLE D. MISCELLANEOUS PROVISIONS**

Sec. 5.01. FILING REQUIREMENTS. (a) Each application, petition, certificate, or other paper permitted or required to be filed in the county court under this Act must be filed with the county clerk of the proper county.

(b) The county clerk shall file each paper and endorse it with:

(1) the date on which the paper is filed;

(2) the docket number; and

(3) the clerk's official signature, stamp, or seal.

(c) A person may initially file a paper with the county clerk by the use of reproduced, photocopied, or electronically transmitted paper if the person files the original signed copies of the paper with the clerk not later than the third working day after the date on which the initial filing is made.

Sec. 5.02. INSPECTION OF COURT RECORDS. (a) Each paper in a docket for commitment proceedings in the county clerk's office, including the docket book, indexes, and judgment books, is a public record of a private nature.

(b) A paper may be used, inspected, or copied only under a written order issued by the:

(1) county judge;

(2) judge of a court that has probate jurisdiction; or

(3) judge of a district court having jurisdiction in the county.

(c) A judge may not issue an order under Subsection (b) of this section unless the judge enters a finding that:

(1) the use, inspection, or copying is justified and in the public interest; or

(2) the paper is to be released to the person to whom it relates or to a person designated in a written release signed by the person to whom the paper relates.

(d) In addition to the finding required by Subsection (c) of this section, if a law relating to confidentiality of mental health information or physician-patient privilege applies, the judge must find that the reasons for the use, inspection, or copying fall within the statutory exemptions.

(e) The papers shall be released to an attorney representing the proposed patient in a proceeding held under this title.

(f) This section does not affect access of law enforcement personnel to necessary information in the execution of a writ or warrant.

Sec. 5.03. REPRESENTATION OF STATE. (a) The county attorney shall represent the state in a hearing on court-ordered treatment held under this title.

(b) The district attorney shall represent the state in a county that does not have a county attorney.

Sec. 5.04. HOSPITALIZATION OUTSIDE TREATMENT FACILITY. (a) If, in the opinion of a licensed physician, a person who is receiving court-ordered treatment in a treatment facility requires immediate medical care and treatment in a hospital, the person may be transferred to a hospital.

(b) The hospital may, with the person's consent, provide any necessary medical treatment, including surgery. The hospital may provide medical treatment without the person's consent to the extent provided by other law.

(c) If the order for court-ordered treatment has not expired at the completion of the hospital treatment, the person shall be returned to the treatment facility.

(d) An order for court-ordered treatment may be renewed while the person is in the hospital.

Sec. 5.05. RENEWAL OF ORDER FOR COURT-ORDERED TREATMENT. (a) A court may renew an order for court-ordered treatment entered under Subtitle B of this title.

(b) If an applicant has reasonable cause to believe that a person is still chemically dependent and that, because of the chemical dependency, the person is likely to cause serious physical harm to himself or others, the applicant may file an application for renewal of the original order. The application must comply with the requirements of Section 3.02 of this Act. The applicant must file the application not later than the 14th day before the date on which the previous order will expire.

(c) The application must be accompanied by two new certificates of medical examination for chemical dependency. The certificates must comply with the requirements of Section 3.03 of this Act.

(d) An application for renewal is treated as an original application for court-ordered treatment. The provisions of Subtitle B of this title relating to notice, hearing procedure, and the proposed patient's rights apply to the application for renewal.

(e) If the proposed patient admits the allegations of the application or if, at the hearing on the merits, the court or jury finds that the material allegations of the application have been proven by clear and convincing evidence, the court shall

commit the proposed patient to an approved treatment program for an additional period not to exceed 90 days. However, if the court or jury fails to find by clear and convincing evidence that the proposed patient is a chemically dependent person and meets the criteria for court-ordered treatment, the court shall enter an order denying the application and discharging the proposed patient[~~, which hearing must be held not less than five days and no more than 14 days from the filing of the application. Immediately after the judge sets the date for the hearing, the expert shall give written notice of the hearing and a copy of the application to the proposed patient and his or her attorney in such manner as the court shall direct. The court may proceed to hear the cause at the stated time, with or without the presence of the proposed patient and with or without an answer by the proposed patient, provided the notice is received at least three days prior to the hearing and provided the proposed patient is represented by an attorney if the right of legal counsel is not waived. If the proposed patient is not represented by an attorney of his own choosing, the court shall appoint an attorney. The court shall inform relatives of the proposed patient and other persons to appear at the hearing to give evidence in the cause. The judge may, in his discretion or on request, require the proposed patient to be examined by a physician and the results of the examination shall be considered by the court at the hearing on the application for commitment.~~

[~~(c) The judge may order any peace officer or other designated person to take the proposed patient to an approved facility or other suitable place for detention pending the order of the court if:~~

[~~(1) a certificate of medical examination for alcoholism is filed showing that the proposed patient has been examined within five days of the filing of the certificate; and~~

[~~(2) the certificate states the opinion of the examining physician that the proposed patient is an alcoholic and:~~

[~~(A) is likely to cause serious harm to himself or others if not immediately restrained; or~~

[~~(B) will continue to suffer abnormal mental, emotional, or physical distress and will continue to deteriorate in ability to function independently if not treated, and that the proposed patient is unable to make a rational and informed choice as to whether or not to submit to treatment.~~

[~~(f) If the proposed patient is detained under Subsection (c) of Section 3.02 of this Act, the court shall set a probable cause hearing to be held within 72 hours of the time detention begins, unless the right to hearing is waived by the proposed patient. However, if that 72-hour period ends on a Saturday or Sunday or a legal holiday, the probable cause hearing shall be held on the first succeeding business day.~~

[~~(g) If the proposed patient admits the allegations of the application or if, at the hearing on the merits, the court finds that the material allegations of the application have been proven by clear and convincing evidence, it shall commit the patient to an approved treatment program for a period not to exceed 90 days.~~

[~~(h) Except as provided by this subsection, if the Texas Department of Mental Health and Mental Retardation has designated a single portal authority for the area, the court may not directly commit a person to a state mental health facility, but instead may order the person committed to a program licensed by the commission, to a federal hospital, or to a facility operated by the single portal authority. If the single portal authority lacks the local resources to care for a patient, the authority may transfer the patient to a state mental health facility or, at the request of the authority, the court may commit the patient directly to a state mental health facility~~].

Sec. 5.06 [~~3.03~~]. APPEAL. (a) All appeals from orders requiring court-ordered treatment shall be filed in the court of appeals for the county in which the order was entered.

(b) Notice of appeal shall be filed within 10 days from the date any such order is signed.

(c) When the notice of appeal is filed, the clerk shall immediately send a certified transcript of the proceedings to the court of appeals.

(d) Pending the appeal, the trial judge in whose court the cause is pending may stay the order and release the person from custody if the judge is satisfied that the person does not meet the criteria for protective custody pursuant to this Act. The judge may require an appearance bond in an amount to be determined by the court.

(e) These cases shall be advanced on the docket and given a preference setting over all other cases in the court of appeals and the supreme court. The courts may suspend all rules concerning the time for filing briefs and the docketing of cases.

Sec. 5.07 [~~3.04~~]. HABEAS CORPUS. This Act does not abridge the right of any person to a writ of habeas corpus.

Sec. 5.08. PASS OR FURLOUGH FROM INPATIENT CARE. (a) The facility head may permit a patient admitted to the facility under an order for inpatient services to leave the facility under a pass or furlough. A pass authorizes the patient to leave the facility for not more than 72 hours. A furlough authorizes the patient to leave for a longer period. The pass or furlough may be subject to specified conditions. The facility head shall notify the court that issued the commitment order when a patient is furloughed.

(b) The head of a facility to which a patient was admitted for court-ordered inpatient services may secure the patient's detention and return to the facility by:

(1) signing a certificate authorizing the patient's detention and return; or

(2) filing the certificate with a magistrate and requesting the magistrate to order the patient's detention and return.

(c) A magistrate may issue an order directing a peace or health officer to take a patient into custody and return the patient to the facility if the facility head files the certificate as prescribed by this section. The facility head may sign or file the certificate if the facility head reasonably believes that:

(1) the patient is absent from the facility without authority;

(2) the patient has violated the terms of a pass or furlough; or

(3) the patient's condition has deteriorated to the extent that his continued absence from the facility under a pass or furlough is inappropriate.

(d) A peace or health officer shall take the patient into custody and return the patient to the facility as soon as possible if the patient's return is authorized by the facility head's certificate or the court order. The peace or health officer may take the patient into custody without having the certificate or court order in the officer's possession.

Sec. 5.09. REVOCATION OF FURLOUGH. (a) A furlough may be revoked only after an administrative hearing held in accordance with commission rules. The hearing must be held not later than the 72nd hour after the patient is returned to the facility.

(b) A hearing officer shall conduct the hearing. The hearing officer may be a mental health or chemical dependency professional if the person is not directly involved in treating the patient.

(c) The hearing is informal and the patient is entitled to present information and argument.

(d) The hearing officer may revoke the furlough if the officer determines that the revocation is justified under Subdivision (1) or (2) of Subsection (c) of Section 5.08 of this Act.

(e) A hearing officer who revokes a furlough shall place in the patient's file:

(1) a written notation of the decision; and

(2) a written explanation of the reasons for the decision and the information on which the hearing officer relied.

(f) The patient shall be permitted to leave the facility under the furlough if the hearing officer determines that the furlough should not be revoked.

Sec. 5.10 [~~3.05~~]. DISCHARGE FROM COURT-ORDERED TREATMENT. (a) The administrator of a facility to which a person has been committed for treatment shall discharge the person [~~patient~~] on expiration of the court order.

(b) The administrator of a facility may, at any time prior to the expiration of an order for treatment, discharge the person [~~patient~~] upon his or her determination that the person [~~patient~~] no longer meets the criteria for court-ordered treatment. A discharge under this subsection terminates the court order. Any person discharged under this subsection may not again be compelled to submit to involuntary treatment except pursuant to a new order entered in accordance with the provisions of this Act.

(c) The administrator of a facility to which the patient was committed for inpatient services shall consider before discharging the patient if the patient should receive additional court-ordered care or services on an outpatient basis in accordance with:

(1) a furlough under Section 5.08 of this Act; or

(2) a modified order under Section 3.10 of this Act that directs the patient to participate in outpatient mental health services.

(d) [~~(c)~~] On discharging a person under this section, the administrator of the facility shall prepare a certificate of discharge and file it with the court that entered the order.

Sec. 5.11 [~~3.06~~]. COSTS OF COMMITMENT AND SUPPORT. (a) The laws relating to payment of costs of commitment and support, maintenance, and treatment and to securing reimbursement for those [~~of~~] actual costs that are applicable to court-ordered mental health, probation, or parole services apply to each item of expense incurred by the state or the county in connection with the commitment, care, custody, treatment, and rehabilitation of a person receiving care and treatment under this Act. A county that enters an order of commitment or detention under this Act is liable for payment of the costs of any proceedings related to that order, including:

(1) court-appointed attorney's fees;

(2) physician examination fees;

(3) compensation for language or sign interpreters;

(4) compensation for masters; and

(5) expenses of transporting the patient to a hearing or to a treatment facility.

(b) For any cost actually paid that relates to an order of commitment or detention, the county or state is entitled to reimbursement from the patient, the applicant, or any person or estate liable for the patient's support while in a treatment facility. On motion of the county or district attorney or on the court's own motion, the court may require an applicant to file a cost bond with the court. The state shall pay the costs of transporting home a discharged patient or of returning to a treatment facility a patient absent without permission unless the patient or a person responsible for the patient is able to pay the costs.

(c) The county or the state may not pay any costs for a patient committed to a private hospital unless authorized by the commissioners court of the county or the commission, as appropriate.

Sec. 5.12. IMMUNITY AND PENALTIES. (a) A person who participates in the examination, certification, apprehension, custody, transportation, detention, commitment, or discharge of a proposed patient or in the performance of any act

required or authorized by this Act is not civilly or criminally liable for that action if the person acts in good faith, reasonably, and without malice.

(b) A physician performing a medical examination or providing information to a court in a court proceeding under this Act is considered an officer of the court and is not civilly or criminally liable for the examination or testimony when acting without malice.

(c) A person commits an offense if the person intentionally causes, conspires with another person to cause, or assists another to cause the unwarranted commitment of a person to a treatment facility. A person commits an offense if the person knowingly violates this Act. An offense under this section is a Class A misdemeanor. The appropriate district or county attorney shall prosecute violations of this Act [~~for court-ordered mental health services apply to each item of expense incurred by the state in connection with the commitment, care, custody, treatment, and rehabilitation of a person receiving care and treatment under this Act.~~

[~~(b) Any person admitted to an approved treatment program who has sufficient funds shall be required to pay for his or her maintenance at the same rate charged other patients for maintenance at such facility. All of the provisions of Chapter 152, Acts of the 45th Legislature, Regular Session, 1937 (Article 3196a, Vernon's Texas Civil Statutes), are applicable to any person admitted to a state hospital under the provisions of this Act.~~

[~~Sec. 3.07. COMMITMENT BY COURTS IN CRIMINAL PROCEEDINGS; ALTERNATIVE SENTENCING. (a) The judge of any court having jurisdiction of misdemeanor cases may remand the defendant to an approved treatment program for care and treatment not to exceed 90 days, in lieu of incarceration or fine, if:~~

[~~(1) the court or a jury has found the defendant guilty of an offense;~~

[~~(2) the court finds that such violation resulted from or was related to the defendant's abuse of alcohol; and~~

[~~(3) an approved treatment program, as defined in this Act, is available to treat the person, and the facility agrees in writing to admit the defendant under this section.~~

[~~(b) A defendant who, in the opinion of the court, is mentally ill is not eligible for sentencing under this section. An order of sentencing by the court is treated as a final conviction and an appeal from the order may be taken in the same manner as provided for appeals from any other judgment of that court.~~

[~~(c) If a juvenile court finds that a child has engaged in delinquent conduct or conduct indicating a need for supervision resulting from or related to the child's abuse of alcohol or drugs, the court may remand the child to an approved treatment program for care and treatment for not more than 90 days after the date on which the child is remanded if:~~

[~~(1) an approved treatment program is available to treat the child; and~~

[~~(2) the program agrees in writing to receive the child under this section~~].

SECTION 14. The Texas Alcohol and Drug Abuse Services Act (Article 5561c-2, Vernon's Texas Civil Statutes) is amended by adding Title 3 to read as follows:

**TITLE 3. VOLUNTARY TREATMENT OR REHABILITATION**

Sec. 6.01. VOLUNTARY ADMISSION OF ADULT. A facility may admit an adult who requests admission for emergency or nonemergency treatment or rehabilitation if:

(1) the facility is a treatment facility licensed by the commission to provide the necessary services or is a facility licensed or operated by the Texas Department of Mental Health and Mental Retardation; and

(2) the admission is appropriate under the facility's admission policies.

Sec. 6.02. VOLUNTARY ADMISSION OF MINOR. (a) A facility may admit a minor for treatment and rehabilitation if:

(1) the facility is a treatment facility licensed by the commission to provide the necessary services to minors or is a facility licensed or operated by the Texas Department of Mental Health and Mental Retardation;

(2) the admission is appropriate under the facility's admission policies; and

(3) the admission is requested by:

(A) a parent or other person authorized to consent to medical treatment of a minor under Section 35.01, Family Code; or

(B) the minor, without parental consent, under Section 35.03, Family Code.

(b) The admission of a minor under Subsection (a) of this section is considered a voluntary admission.

Sec. 6.03. DISCHARGE OF VOLUNTARY PATIENT. (a) If a voluntary patient requests in writing to be released from a facility, the facility shall release the person within a reasonable time not to exceed 96 hours unless:

(1) the person files a written withdrawal of the request;

(2) an application for court-ordered treatment or emergency detention is filed and the person is detained in accordance with Subtitle A, B, or C, Title 2, of this Act; or

(3) the patient is a minor admitted with the consent of the parent, guardian, or conservator and that person objects in writing to the release of the minor after consulting with facility personnel.

(b) Subsection (a) of this section applies to a minor admitted under Subsection (a) of Section 6.02 of this Act if the request for release is made in writing to the facility by the person who requested the initial admission.

Sec. 6.04. APPLICATION FOR COURT-ORDERED TREATMENT DURING VOLUNTARY INPATIENT CARE. A person may not file an application for court-ordered treatment for a person receiving voluntary care under this title unless:

(1) a request for release of the person has been filed; or

(2) in the opinion of the head of the facility, the person meets the criteria for court-ordered treatment and:

(A) is absent without authorization; or

(B) refuses or cannot consent to appropriate and necessary treatment.

SECTION 15. Subsection (b), Section 42.08, Penal Code, is amended to read as follows:

(b) In lieu of arresting an individual who commits an offense under Subsection (a) of this section, a peace officer may release an individual if:

(1) the officer believes detention in a penal facility is unnecessary for the protection of the individual or others; and

(2) the individual:

(A) is released to the care of an adult who agrees to assume responsibility for the individual; or

(B) verbally consents to voluntary [~~alcohol or drug~~] treatment for chemical dependency in a program in [~~approved as~~] a treatment facility licensed and approved by the Texas Commission on Alcohol and Drug Abuse [~~Alcoholism~~], and the program admits the individual for treatment.

SECTION 16. The following are repealed:

(1) Chapter 398, Acts of the 52nd Legislature, 1951 (Article 3196c, Vernon's Texas Civil Statutes);

(2) Chapter 154, Acts of the 55th Legislature, Regular Session, 1957 (Article 3196c-1, Vernon's Texas Civil Statutes);

(3) Chapter 37, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4447i, Vernon's Texas Civil Statutes);

(4) R. B. McAllister Drug Treatment Program Act (Article 4476-15a, Vernon's Texas Civil Statutes);

(5) Chapter 543, Acts of the 61st Legislature, Regular Session, 1969 (Article 5561c-1, Vernon's Texas Civil Statutes); and

(6) Alcohol and Substance Abuse Services Oversight Act, Chapter 956, Acts of the 70th Legislature, Regular Session, 1987 (Article 5561c-2a, Vernon's Texas Civil Statutes).

SECTION 17. This Act takes effect November 1, 1989, and applies to a person committed before, on, or after that date or to a person whose commitment is sought but who has not been committed before that date.

SECTION 18. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Brooks, on behalf of Senator Green, and by unanimous consent, the Senate concurred in the House amendment to **S.B. 57** viva voce vote.

## HOUSE BILL 99 ON SECOND READING

On motion of Senator McFarland and by unanimous consent, the regular order of business and Senate Rule 7.13 were suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 99**, Relating to the appointment of reserve peace officers by certain water districts.

The bill was read second time.

Senator Brown offered the following amendment to the bill:

Amend **H.B. 99** by inserting the following sections of the bill and renumbering the succeeding sections accordingly:

SECTION 2. Subchapter A, Chapter 50, Water Code, is amended by amending Section 50.001 as follows:

Sec. 50.001. Definitions

As used in this chapter:

(1) "District" means any district or authority created by authority of either Article III, Section 52, (Subsection (b), Subdivisions (1) and (2)), or Article XVI, Section 59, of the Texas Constitution.

(2) "Commission" means the Texas Water Commission.

(3) "Board" means the governing body of a district.

(4) "Executive director" means the executive director of the Texas Water Commission.

(5) "Water Supply Corporation" means a non-profit water supply corporation that is created and operating under Chapter 76, Acts of the 43rd Legislature, 1st

Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes), to aid and assist a county or a district and act on its behalf, and that has received assistance from the Texas Water Development Board in the form of a loan or guarantee.

SECTION 3. Subchapter C, Chapter 50, Water Code, is amended by adding Section 50.063 to read as follows:

Sec. 50.063. ACQUISITION OF LAND AND INTERESTS IN LAND. A district or a Water Supply Corporation shall have the right to purchase, own, hold and lease and otherwise acquire water wells, springs and other sources of water supply, to build, operate and maintain pipelines for the transportation of water or the collection of sewage, to build and operate plants and equipment necessary for the distribution of water or the collection or treatment of sewage and to sell water to or collect and treat the sewage of municipalities and other political subdivisions, corporations and other persons. A district or a Water Supply Corporation shall also have the power to purchase, own, hold, lease or otherwise acquire land, facilities, equipment and improvements necessary to provide flood control and drainage for such entities or individuals. A district or a Water Supply Corporation shall have the right of eminent domain to acquire the fee simple to or an easement or other interest in land considered by the board of directors to be necessary for any of its projects and shall have the right to use the rights-of-way of the public highways of the State for laying of pipelines under the supervision of the State Highway and Public Transportation Commission.

The amendment was read and was adopted viva voce vote.

On motion of Senator McFarland and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

## HOUSE BILL 99 ON THIRD READING

Senator McFarland moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 99** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Glasgow, Green, Parmer, Washington, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 0. (Same as previous roll call)

## SENATE RESOLUTION 176

Senator Zaffirini offered the following resolution:

**S.R. 176**, Directing the Health and Human Services Committee to establish an interim study committee to examine the availability of and establishment of services to families of child abuse victims.

The resolution was read.

On motion of Senator Zaffirini and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

## BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the captions had been read, the following enrolled bills and resolutions:

| | |
|---|---|
| **S.C.R. 7** | **S.B. 75** |
| **S.C.R. 6** | **S.B. 91** |

S.C.R. 8
S.C.R. 16
S.C.R. 19
S.B. 21
S.B. 23
S.B. 30
S.B. 50
S.B. 53
S.B. 62
S.B. 64
S.B. 86 (Signed subject to Art. III, Sec. 49a of the Constitution)
S.B. 96
H.B. 29
H.B. 40
H.B. 63
H.B. 95
H.B. 123
H.C.R. 1
H.C.R. 7
H.C.R. 15

## SENATE RULE 11.11 SUSPENDED

On motion of Senator Henderson and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on State Affairs might consider **H.B. 94** upon adjournment today.

## CONGRATULATORY RESOLUTIONS

**S.R. 166** - By Dickson: Extending congratulations to the Reverend Johnny Floyd Franks of Killeen on receiving the Exchange Club's 1989 Golden Deeds Award.

**S.R. 167** - By Dickson: Extending congratulations to Drayton McLane, Jr., of Temple on receiving the 1989 Distinguished Citizen Award.

**S.R. 168** - By Sims: Extending congratulations to Mr. and Mrs. O. B. Jacobs of Robert Lee on their 50th wedding anniversary.

**S.R. 169** - By Truan: Commending Dr. Richard O. Albert of Alice for his lifetime of service to the people of Texas and to his country and for his most generous gift for the preservation of our Texas heritage.

**S.R. 170** - By Brooks: Extending congratulations to A. R. "Babe" Schwartz on his 63rd birthday.

**S.R. 171** - By Krier: Commending Henry Cisneros on his superb accomplishments as Mayor of San Antonio and extending best wishes to him as he embarks on new ventures.

**S.R. 172** - By Sims: Extending congratulations to Mr. and Mrs. Ray Pernell of San Angelo on their 50th wedding anniversary.

**S.R. 173** - By Barrientos: Extending congratulations to Isaac Bertram Bell on his 100th birthday.

**S.R. 174** - By Tejeda: Extending congratulations to the Kitty Hawk Junior High School Industrial Technology class for capturing first place in Parliamentary Procedure.

## ADJOURNMENT

On motion of Senator Brooks, the Senate at 11:04 a.m. adjourned until 10:00 a.m. tomorrow.